

under free trade; so that the 25 per cent ad valorem duty on casein glue will mean that casein will be shipped into this country in the form of glue instead of in the form of casein.

Mr. SMOOT. Has the Senator an amendment to offer to cover the point?

Mr. BLAINE. I think that a duty of at least 30 per cent ad valorem ought to be granted. That would leave the compensatory duty of 4.4 cents a pound to make up for the duty on casein, and a protective duty of only 0.31 of 1 cent per pound on casein glue.

Mr. SMOOT. That is about the rate as I figure it. The increase of 5 per cent would make it correct.

Mr. BLAINE. At least it would cover the increased rate on casein.

Mr. SMOOT. If the Senator has no objection, I will ask unanimous consent that we disagree to the committee amendment on casein glue.

The PRESIDING OFFICER. The Chair can not hear the Senator from Utah.

Mr. SMOOT. On page 22, line 12, I ask that "casein glue" be stricken out and that following the words "ad valorem" in line 14, we insert the words "casein glue, 30 per cent ad valorem."

The PRESIDING OFFICER. May the Chair ask whether or not the amendment relating to "casein glue" has not already been agreed to?

Mr. SMOOT. The committee amendment has been disagreed to and it leaves the House text. In line 11 the casein glue amendment was disagreed to. That being the case I will have to ask unanimous consent that we strike out the words "casein glue" in line 11 and after the words "ad valorem," in line 14, insert the words "casein glue, 30 per cent ad valorem."

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none. Without objection the amendment offered by the Senator from Utah is agreed to.

Mr. KEAN. Mr. President, I offer the following amendment. The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 23, line 20, strike out lines 20, 21, and 22 and insert in lieu thereof the following:

PAR. 52. Menthol, 30 cents per pound; camphor, crude or natural, 1 cent per pound; refined or synthetic, 6 cents per pound.

Mr. SMOOT. Mr. President, will the Senator let the amendment go over until to-morrow morning?

Mr. KEAN. Certainly.

#### COMMENTS ON REPORT OF LAW ENFORCEMENT COMMISSION

Mr. WAGNER. Mr. President, I desire to state that to-morrow morning, as soon as I can secure recognition, I desire to submit some observations on the report of the Law Enforcement Commission, particularly on that portion of it which deals with the question of the right of trial by jury.

#### RECESS

Mr. SMOOT. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and the Senate (at 5 o'clock and 10 minutes p. m.) took a recess until to-morrow, Thursday, February 6, 1930, at 11 o'clock a. m.

### HOUSE OF REPRESENTATIVES

WEDNESDAY, February 5, 1930

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, in our duties make the path plain to our vision. Thou who givest wisdom to all who ask, having loved Thine own, Thou dost love them unto the end. Coming to Thee, we would discern what we should be. We would take no ignoble conception of life, character, or duty. O teach us the way, and help us to walk in those virtues which shall be glorious through all eternity. Forgive our delays and imperfections. Again, our Father, we pause; we feel the shadows of the great adventure; the Nation's head bows—that most lovable man, gentle jurist, and great statesman is sick, we fear, unto death. In victory and defeat his fellow countrymen take him to the altar of their hearts; he abides in the sanctuary of their breasts. O how he abounded in riches of soul—even our night song praises the Lord as we feel the glow of his wonderful character. O Father of sympathy and consolation, be about yonder hearthstone as it is overcast by heavy grief. In the anguish of her distress may

she discern Thee. Let not sorrow strike the shield of her faith. Be with her in quietness and in confidence, fearing no to-morrow, for Thou art infinite love. Amen.

The Journal of the proceedings of yesterday was read and approved.

#### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 6621. An act to extend the times for commencing and completing the construction of a bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Ala.; and

H. R. 7642. An act to extend the time for completing the construction of the approaches of the municipal bridge across the Mississippi River at St. Louis, Mo.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3371. An act to amend section 88 of the Judicial Code, as amended; and

S. Con. Res. 25. Concurrent resolution relating to numbering of sections and paragraphs of the tariff bill.

The message also announced that the Senate agrees to the amendment of the House to the joint resolution (S. J. Res. 98) entitled "Joint resolution to grant authority for the erection of a permanent building at the headquarters of the American National Red Cross, Washington, D. C."

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the joint resolution (H. J. Res. 170) entitled "Joint resolution providing for a commission to study and review the policies of the United States in Haiti."

#### SEVENTY-FIFTH ANNIVERSARY OF THE YORKVILLE ENQUIRER

Mr. STEVENSON. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. STEVENSON. Mr. Speaker, I take the floor to call attention to the fact that there is a county paper in South Carolina which has just celebrated its seventy-fifth birthday. It is a semiweekly, conducted by the same people since it was founded three-quarters of a century ago. The grandfather, the father, the son, and the grandson have been operating the paper and they are conducting it to-day with great force and with great influence for good in the community. It is in a town of 3,000 inhabitants and the paper has more subscribers than there are inhabitants in the town. I refer to the Yorkville Enquirer, and, Mr. Speaker, I ask unanimous consent to extend my remarks by inserting in the RECORD as a part of my remarks what Mr. Brisbane has recently written about this paper and its proprietors.

Mr. UNDERHILL. Mr. Speaker, I am sorry I have to object to the gentleman extending his remarks by inserting Mr. Brisbane's opinion of a newspaper published down in South Carolina. I think it has no national or general interest.

Mr. STEVENSON. Mr. Speaker, may I ask for one minute more?

The SPEAKER. The gentleman from South Carolina asks unanimous consent to proceed for one additional minute. Is there objection?

There was no objection.

Mr. STEVENSON (reading):

The Yorkville Enquirer noted the seventy-fifth anniversary of its founding on January 4, 1930. Four generations of the same family have been connected with the Enquirer since it was established by that name January 4, 1855.

That is probably a record for a single family remaining in the newspaper field with the same newspaper in the same town—a record not only for the United States but for all the world. Seventy-five years is a long time for a newspaper to exist. There are few of them in the United States. York, formerly Yorkville, founded about 1798, has had a newspaper since 1823. The Grist family has been connected with the publishing business here most of that time; to be exact, since 1832. In 1926, Arthur Brisbane wrote in the New York Evening Journal:

#### BRISBANE COMMENTS ON RECORD

"There were two generations of Bennetts; only one of Horace Greeley. Three generations of Joseph Medill's family have run the Chicago Tribune; the second generation of Butlers is running the Buffalo News; the fourth generation of the Grist family of Yorkville, S. C., is running the Yorkville Enquirer, that had for forerunner the Journal of the Times.

"Mr. A. M. Grist, grandson of John E. Grist, original editor, is running the Yorkville Enquirer, with his daughter, Miss Margaret Grist; his niece, Miss Sarah Elizabeth Grist; and his nephews, James D. and Lewis M. Grist 2d.

"That family has lived, worked, and edited in Yorkville, S. C., for almost a century without interruption. Do you know of any editorial family that can beat that record or any family of actors or other professional workers? The world knows three generations of the Drews, a great family of actors, but not four generations, yet.

"As holders of the records, your congratulations should go to the Grist family and to the Yorkville Enquirer, which they edit ably."

[Applause.]

#### THE CONSTITUTION AND THE BILL OF RIGHTS

Mr. GRIFFIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on the Constitution and the bill of rights, and in this connection to print extracts from speeches which I have made in the House.

The SPEAKER. The gentleman from New York asks unanimous consent to print his remarks in the Record on the subject of the Constitution and the bill of rights. Is there objection?

There was no objection.

Mr. GRIFFIN. Mr. Speaker, under the leave to extend, I herewith append a few timely remarks on the Constitution and the bill of rights and certain relevant extracts from speeches made by me at various times during the past 12 years:

#### THE AMERICAN CONSTITUTION

Political liberty in its rise and progress is like the course of a river. We can trace its origin, its feeble struggles through the sedge and undergrowth of primitive times; its tempestuous struggles and vicissitudes through tortuous channels; checked, obstructed—often turned back in its course—but inevitably broadening into a mighty waterway, sweeping majestically onward to the sea. Like the river, it shapes the contour of its banks—it tears down the passions of mankind, it hurls out of its way mighty bowlders of prejudice that resist its progress; it abrades the sides of rugged mountains and makes a scene of natural beauty the land which is blest with its presence. It promotes the bounteous rainfall of human kindness, restrains passion, conquers selfish ambitions, and makes order out of chaos.

The American Constitution was the culmination of the mature experience of mankind. Its founders had before their minds 2,000 years of experimentation in all forms of political government. They found little in ancient precedents to follow, but much to avoid. The Achaian and Lycian League was merely a confederation of the same nature as that from which they were striving to depart. There was nothing in the Swiss Confederation or in the United Netherlands which they could safely emulate.

In the rejection of these ancient forms their judgment has been amply justified. The United Netherlands is a thing of the past and the Swiss Federation has been evolved into a federal organization in emulation of our own.

The American Constitution was the offspring of 2,000 years of struggle for human liberty. It was and is the last word in political architecture of its class and the first great manifestation of American political genius.

The partisans of monarchical systems may still boast, if they will, of the efficiency and stability of hereditary kings and nobilities. But if such ancient systems have stood the ordeals of modern life it is because they have been stripped of all power for evil.

Under the American system the best title to nobility is achievement, the only road to precedence is ability.

#### ARTICLES OF CONFEDERATION

In the midst of the Revolutionary War the Congress had adopted a temporary makeshift of government known as the Articles of Confederation and Perpetual Union.

They were adopted on November 15, 1777, but it was not until the Continental Congress again assembled at Philadelphia, in the following July, that they were engrossed and ready for signature. On July 9 the delegates of eight States signed. North Carolina acceded on July 21; Georgia, July 24; New Jersey, November 26. The Delaware delegates signed on May 5 the following year, 1779, but Maryland refused to assent unless the public lands, northwest of the Ohio River, were ceded to the Federal Government by the respective States claiming them, and be held as the common property of all the States. This was a far-seeing fight in which the courageous little State triumphed. The cession was eventually made and Maryland's delegates signed the compact on March 1, 1781.

Its most distinctive influence was to inculcate the idea of a "perpetual Union." These words occur not only in the preamble but are repeated four times, and the document closes, as though

to make it more emphatic, with the same thought in these words: "The Union shall be perpetual."

It is well to emphasize this, because the idea of the original compact between the States of a "perpetual union" was entirely lost sight of in later years by the advocates of secession, not only by those in the South during the Civil War but by those in New England who supported secession in the Hartford Convention.

There are many things about the Articles of Confederation which are of historical interest; for instance, they protected the slave owner in the possession of his slaves. They contained, strange as it may seem, the first suggestion of the "recall" in American politics, for they provided for the recall of Delegates to the Continental Congress. They left an opening for Canada to enter the confederation. They acknowledged the lottery as a political expedient, for they provided for the choice of judges by lot in the determination of disputes between the States.

They made the Continental Congress the executive as well as the legislative branch of Government, except that during the recesses of Congress they provided for the appointment—by Congress—of an executive committee. Beyond this, there was no provision for the executive or judicial branches of government. Without a responsible executive, an established judiciary, or a cohesive organization, it is easy to understand the virtual anarchy into which the States ebbed when the Revolutionary War closed.

#### THE MAKING OF THE CONSTITUTION

After pottering along for six years without a national revenue or the means of raising it, with States here and there threatening secession, with disorder rampant everywhere, the best minds in the Union saw the need of a better organized system of Federal Government. Congress finally issued a call for a convention to meet at Philadelphia in May, 1787—

For the sole and express purpose of revising the Articles of Confederation.

Even in the wording of that resolution, notwithstanding the dire straits of the country, you will note a reluctance to venture on new paths.

The wording of the resolution was one of the first stumbling blocks encountered by the delegates when they convened. After much discussion, they cast their fears to the winds and boldly adopted a resolution declaring "That a national government ought to be established, consisting of a supreme legislature, a judiciary, and an executive."

The convention consisted of 55 members and embraced among their number the ablest men in America whose names have become historic—George Washington, Benjamin Franklin, Alexander Hamilton, James Madison, George Mason, and Gouverneur Morris.

Although the appointed time was fixed as May 14, 1787, it was not until May 25 that a quorum was present. They sat in secret for nearly five months. The debate was often acrimonious and at times their undertaking seemed hopeless. In a moment of despair, Franklin, who was then 81 years of age, proposed that the convention, as all human means of obtaining agreement seemed to be useless, should open its meetings with prayer. The original resolution in his handwriting with an annotation stating that "only three or four agreed with him" is still preserved in the State Department at Washington.

#### THE CONNECTICUT COMPROMISE

After crossing the first bridge—that is, settling the question as to whether they should amend or discard and recreate a new constitution—the convention split on many fundamental issues. The slave States favored the confederation idea because that gave them each one vote irrespective of size, wealth, or population, and on this rock the convention came near ending its career. Finally Roger Sherman proposed what has been called the Connecticut compromise—namely, the proportion of suffrage in the first branch (House of Representatives) should be according to the respective numbers of free inhabitants, and that in the second branch, or Senate, each State should have one vote or more. That plan was finally adopted with the proviso that each State should have two representatives in the Senate.

#### SLAVE QUESTION

The next difference was on the subject of slavery. That also became the subject of compromise—the negro being recognized as three-fifths of a man for the purposes of taxation and representation and holding out the promise of a cessation of the slave trade after 1808.

#### THE SAFEGUARD IN ARTICLE V

It is worth noting here that the clause relating to the slave traffic and also the clause securing equal representation in the Senate were safeguarded by a paragraph in Article V, which precluded them from ever being amended.



## THE PRESIDENCY

The next great controversy was as to the character of the Executive, his designation, and term of office. Here the struggle between democracy and aristocracy was emphasized. But the democratic trend of the period was tame and feeble, for the suggestion of having the Executive elected by direct vote of the people found no favor. Hamilton and Morris favored the principle of an Executive for life.

## MANNER OF ELECTION

The convention differed, too, on the manner of election. Thirty votes were taken on this question alone. It created the Electoral College—an awkward, complicated contrivance which we seem never to have been able to wholly abandon. The twelfth amendment, ratified in 1804 after the Jefferson-Burr contest, patched it but failed to make it adequate to meet the Hayes-Tilden controversy in 1876.

Democracy has had an arduous and uphill struggle. Slowly and by degrees it has won its way into the political systems of the world. It has gained the victory of having the Senate elected by direct vote of the people, but has yet to reach the goal of popular election of the President and Vice President.

## THE LITERARY FINISH

The convention had so far agreed on the principles of the document that on July 24, 1787, a committee of detail was appointed to lick the instrument into shape. On August 6 this committee reported the draft of the Constitution in 23 articles. On September 12 a committee on revision of style was appointed, and it is of interest to note that the literary finish of our Nation's organic law is due to Gouverneur Morris, who was a member of that committee and at that time a delegate from Pennsylvania. Bryce has said that Morris had one of the acutest minds of the convention.

## THE OPPOSITION

The Constitution was promulgated on September 17, 1787. It is significant to note that it was signed by only 39 out of the original delegates. Although the instrument was filled with compromises, there were many who refused to be appeased.

Among these, perhaps the most conspicuous were Patrick Henry and Thomas Jefferson. Here was one time, at least, where two popular idols agreed. It had not been long before this that Henry and his followers had fought Jefferson's plan for the separation of the church and state in Virginia—a reform, the accomplishment of which Jefferson thought so much of—and rightly so—that he coupled it with his authorship of the Declaration of Independence as worthy of a place in his epitaph.

## THE BONE OF CONTENTION

The chief bone of contention was that the instrument as adopted failed to incorporate those basic principles of liberty which had drifted down the stream of history from Runnymede and had become embedded in the common law of the land. These embraced freedom of religion, free speech, free press, the right to bear arms, the right to peaceably assemble and petition for redress, and so forth; in fact, all of the guaranties contained in the 10 amendments subsequently adopted.

## A BILL OF RIGHTS OR NO BILL OF RIGHTS

The point was: Were these fundamental principles of liberty sufficiently embedded in the common law to be forever safe against legislative repeal or interference? Hamilton held they were; Jefferson held they were not, and worked incessantly with his pen, in letters to his political friends, to promote a propaganda for the incorporation of these guaranties as amendments in the new Constitution.

## JEFFERSON'S VIEWS

Claude Bowers, in his *Jefferson and Hamilton*, quotes from one of Jefferson's letters to Madison. By that time he had become reconciled to the document itself, as promulgated by the convention, but insisted that—

\* \* \* a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest in inference.

## HAMILTON'S VIEWS

Hamilton held that the guaranties of personal liberty were indissolubly bound up in the common law of the land, and that incorporating them in the Constitution, instead of making them more secure, would only tend to expose them to attack.

Mark the keenness of this reasoning:

For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained when no power is given by which restrictions may be imposed?

Continuing, he says:

I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication that a power to prescribe proper regulations concerning it was intended to be vested in the National Government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers by the indulgence of an injudicious zeal for bills of rights. (*The Federalist*, No. LXXXIV, p. 439, McLean ed., New York, 1788.)

## BOTH WERE RIGHT

There was a real, vital need at the time that the great fundamental principles of human liberty, which up to that moment were buried in judicial decisions, should be put in statutory form and given a sanctuary in the organic law of the new Nation, for in many of the States, and even in England itself, freedom of worship and the right of free speech and a free press were on a very insecure foundation. Jefferson therefore was right, on the facts, in insisting that the bill of rights should go into the Constitution.

Hamilton also was right, but only on the theory that the fundamental rights of man were already definite and secure in the existing state of society. If that were true, there would obviously be no need for closer definition or further repetition in the organic law of the Nation.

## THE SANCTITY OF THE BILL OF RIGHTS

"Why declare that things shall not be done which there is no power to do?" That was the substance of Hamilton's argument. Jefferson's reply was to point to the facts, to the many trespasses already made by colonial legislatures and the natural fear that the Legislature of the new Nation in the course of time might be tempted to make similar encroachments. He wanted the bill of rights to be not only impregnable but unassailable. That is why he wanted it in the Constitution itself.

It will thus be seen that both of these great statesmen were in accord as to the sanctity of the bill of rights. Hamilton believed that it was so sacred that it could never be assailed. Jefferson believed it was so sacred that it ought to be put in a special niche on the altar of the Constitution, so that no legislature would ever dare to make the attempt to attack it, remove it, or impair its force.

## THE GREAT OMISSION

There was only one flaw in the reasoning of Jefferson and those who agreed with his proposal to embed the bill of rights in the organic law, and that was the great omission to foresee that its incorporation therein might at some time in the future make its safeguards and guaranties subject to repeal or amendment under Article V of the Constitution, of which it thus became a part.

And this is precisely what has happened. But it took 130 years. In the prohibition cases (253 U. S., p. 353) it was held that because the bill of rights was a part of the Constitution, all of its guaranties were thereby subject to modification or repeal by an amendment adopted under the amending clause of the instrument, namely, Article V.

Thus Hamilton's fears as to the dangers of interpretation were confirmed. Under this decision, if an amendment to the Constitution were adopted repealing the right of freedom of worship or the right of a free press, it would have to be upheld under the precedent thus established.

The great omission of the founders in incorporating the bill of rights in the organic law was in failing to provide that the guaranties of liberty embraced in the bill of rights shall never be subject to repeal or impairment under Article V of this Constitution.

It will be remembered that that very precaution was taken to prevent any interference with the slave traffic prior to 1808 and with the right of the States to equal suffrage in the Senate. Article V specifically provides as follows:

Provided that no amendment which may be made prior to the year One thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article (dealing with the slave traffic) and that no State, without its consent, shall be deprived of equal suffrage in the Senate.

Of course, at that time, the bill of rights had not been incorporated in the Constitution; but when the resolution submitting it to the States for adoption was framed, it would have been strange indeed if no one had thought of adding a similar safeguard to protect its guaranties from repeal or impairment,

If it were suspected, even for a moment, that their invulnerability could ever be questioned.

#### A QUESTION THAT WILL NOT DIE

This is a question that will not die. It is fairly open to speculation whether or not the Supreme Court, if the question were put before them again, would ever follow the precedent in the eighteenth amendment decision.

To my mind, there is ample justification for the judicial interpretation that at the time of the adoption of the Constitution the first 10 amendments were not a part thereof and could not therefore have possibly been envisioned as being susceptible of ever being abrogated or destroyed under the fifth article.

It is difficult to conceive that statesmen holding the attitude of Jefferson and Hamilton as to the sanctity of the bill of rights would ever have consented to its incorporation in the Constitution without deliberately and specifically excepting its guaranties from the danger of repeal or impairment.

I venture to say that a close study of events contemporaneous with the adoption of the first 10 amendments, embracing the bill of rights, will justify the interpretation that if those amendments were understood to express in the organic law the fundamental guaranties of free government it was never the intention of the founders to subject them to the jeopardy of subsequent extirpation or destruction.

#### THE AMENDMENT OF THE CONSTITUTION

On March 4, 1789, the First Congress of the United States, then sitting in New York City, passed a resolution submitting 12 amendments for ratification by the States.

The first amendment was practically an apportionment law as to the number of Representatives to sit in subsequent Congresses. It was rejected.

The second amendment was also in the nature of statutory law, and it was also rejected.

The next 10 amendments embraced the much-discussed bill of rights, and they were ratified without a dissenting voice by the nine States which considered them. It appears that Massachusetts, Connecticut, Georgia, and Kentucky made no returns.

#### ANALYSIS OF THE AMENDMENTS

In my speech in the House on March 16, 1926, I incorporated an analysis of the 19 amendments to the Constitution so far adopted.

I classified them according to their purpose and character as: I, Declaratory; II, Explanatory; III, Structural; IV, Empowering; V, Legislative.

#### 1. DECLARATORY; THAT IS, RECOGNIZING OR EXTENDING HUMAN RIGHTS

Amendment I. Declaring freedom of religion, speech, press; the right to peaceably assemble and petition for redress of grievances.

Amendment II. Declaring the right of the people to bear arms.

Amendment III. Declaring the sanctity of the home against the quartering of troops.

Amendment IV. Declaring the security of the people in their persons, houses, papers, and effects against unreasonable search.

Amendment V. Declaring the right of trial by jury.

Amendment VI. Declaring the right of the accused to a speedy trial in the district wherein the crime shall have been committed, etc.

Amendment VII. Declaring the supremacy of the common law and conserving the right of trial by jury.

Amendment VIII. Declaring against excessive bail and cruel and unusual punishment.

Amendment XIII. Extending the blessings of freedom to all human beings.

Amendment XIV. Declaring that no State shall deprive any person of life, liberty, or property without due process of law.

Amendment XV. Declaring the right of citizens to vote irrespective of race, color, or previous condition of servitude.

Amendment XIX. Declaring the right of citizens to vote irrespective of sex.

#### 2. EXPLANATORY—THAT IS, CONSTRUING THE INSTRUMENT

Amendment IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

Amendment XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by the citizens of another State, or by the citizens or subjects of any foreign state.

#### 3. STRUCTURAL—THAT IS, AFFECTING THE STRUCTURE OF THE INSTRUMENT

Amendment XII. Changing the method of the election of President and Vice President.

Amendment XVII. Changing the method of the election of United States Senators.

#### 4. EMPOWERING—THAT IS, GIVING TO OR ENLARGING THE POWERS OF CONGRESS

Amendment XVI. Giving Congress the power to impose taxes on incomes irrespective of source and without regard to any census or enumeration.

#### 5. LEGISLATIVE—THAT IS, PUTTING ENACTMENTS OR STATUTES IN THE INSTRUMENT; USURPING THE POWER OF CONGRESS

Amendment XVIII. Which embeds in the Constitution a police regulation prohibiting the manufacture, sale, or transportation of intoxicating liquors for beverage purposes.

An examination of this analysis shows that we have only one legislative amendment usurping the power of Congress, the eighteenth amendment.

[From my speech of December 9, 1926]

#### RELIGIOUS STATUTES IN THE COLONIES

Religion is a bad thing to inject into legislation, whether you invoke the moral sanction or not. There is always some pretext of morality in connection with every invasion of human liberty. That is the cloak under which intolerance makes its encroachments in all governments in all the history of the world. Read the history of our early Colonies, particularly Virginia and Massachusetts, where they had laws putting men in the stocks because they did not go to church, making it a capital offense if they missed church three times.

#### EVILS OF CHURCH INFLUENCE IN THE THIRTEEN COLONIES

I will take advantage of the leave to extend granted to me to insert at this point a brief summary of some of the religious statutes of the American Colonies. All of them, without exception, enacted laws for the purpose, as they believed, of promoting Christianity, but their cruel and inhumane enactments were in striking contrast with the charity, kindness, and toleration of the founder of Christianity.

These rigorous colonial lawmakers doubtless thought they were speaking for the "moral forces" of the communities they were representing, for their intolerant and cruel statutes usually began with a preamble in the nature of a pious homily:

#### VIRGINIA

##### PENALTY OF DEATH FOR NONATTENDANCE AT CHURCH ON SUNDAY

Every man and woman shall repair in the morning to the divine service and sermons preached upon the Sabbath Day, and in the afternoon to the divine service and catechising, upon pain for the first fault to lose their provision and the allowance for the whole week following; for the second to lose the said allowance, and also be whipped; and for the third to suffer death. (America's first Sunday law, 1610.)

##### PENALTY OF DEATH FOR BLASPHEMY

In the same year, 1610, a law was enacted in Virginia against blasphemy, the offender for the first offense to suffer "severe punishment," for the second "to have a bodkin thrust through his tongue," and for the third "to be brought to a martial court and there receive censure of death."

(NOTE.—Similar laws were enacted by Massachusetts in 1638; by Connecticut about the same time; and by Maryland in 1723.)

#### MASSACHUSETTS

##### PRESUMPTUOUS SUNDAY DESECRATION TO BE PUNISHED BY DEATH

This court taking notice of great abuse and many misdemeanors committed by divers persons in these many ways, profaning the Sabbath or Lord's Day, to the great dishonor of God, reproach of religion, and grief of the spirits of God's people,

Do therefore order, That whosoever shall profane the Lord's Day, by doing unnecessary servile work, by unnecessary traveling, or by sports and recreations, he or they that so transgress, shall forfeit for every such default 40 shillings, or to be publicly whipped; but if it clearly appear that the sin was proudly, presumptuously, and with a high hand committed, against the known command and authority of the blessed God, such a person therein despoiling and reproaching the Lord, shall be put to death or grievously punished at the judgment of the court. (Law from Codification of 1671.)

#### WASHINGTON RUNS AFOUL OF THE LAW

As to that part of the statute against "traveling on the Lord's Day," it is interesting to note that even the good President Washington fell afool of this pious prohibition. Having missed his way on Saturday he was obliged to ride a few miles on Sunday to gain the town in which he was to attend divine service. Before he arrived, however, he was met by a tithingman who commanded him to stop and demanded the occasion of his riding. The general explained the circumstances and it was not until he promised to go no further that the tithingman permitted him to proceed on his journey.

It is interesting to note, also, that John Adams actually, seriously argued that it was against the conscience of the people of his State to suggest making any changes in these rigorous drastic laws. He stated that they might as well think they could change the movements of the



heavenly bodies as to alter the religious laws of Massachusetts. (See *Life and Works of John Adams* by Charles Francis Adams, Vol. XI, p. 399.)

Nevertheless all of the religious statutes of Massachusetts, except the State Sunday laws, were abolished in 1833.

#### CONNECTICUT

##### PROFANATION OF THE LORD'S DAY

Whosoever shall profane the Lord's Day, or any part of it, either by sinful, servile work, or by unlawful sport, recreation, or otherwise, whether wilfully or in a careless neglect, shall be duly punished by fine, imprisonment, or corporally, according to the nature and measure of the sin, and offence. But if the court upon examination, by clear and satisfying evidence find that the sin was proudly, presumptuously, and with a high hand committed against the known command and authority of the blessed God, such a person therein despising and reproaching the Lord shall be put to death, that all others may feare and shun such provoking, rebellious courses. (Law of 1656.)

#### DELAWARE

##### THE LAW AGAINST BLASPHEMY

The Delaware law of colonial times against blasphemy provided that if "wilfully or premeditatedly" done the offender "be set in the pillory for the space of two hours and be branded in his or her forehead with the letter B, and be publicly whipt on his or her bare back with thirty nine lashes well laid on." (Laws of Delaware, 1797, vol. 1, pp. 173, 174.)

Now, the better opinion of to-day of enlightened men all over the world is that you can not make men good or moral by law. [Applause.] Leave morality to the churches. Keep the churches within their ecclesiastical confines. Personal habits are a matter of church discipline. The state has only to do with the conservation of morality in its relation to public conduct and the preservation of law and order. The moment that religious opinions as to moral conduct are injected into legislative enactments that moment tyranny enters, and the freedom of the people is at an end.

Is it any wonder that Jefferson was anxious to see the bill of rights engrafted into the body of our Constitution?

[From my speech of July 18, 1919]

#### THE EIGHTEENTH AMENDMENT

##### CURTAINS HUMAN RIGHTS

I desire to point out the fact that the eighteenth amendment is the only amendment that curtails human rights. A casual examination of these amendments will bear out that contention.

##### ANTAGONISTIC TO AMERICAN SPIRIT

This amendment is clearly antagonistic to the spirit of the Constitution, the principles which governed its creation and guided its gradual modification for over 130 years. It has broken ground in a new direction—establishes a new precedent which is fraught with many dangers and may lead to efforts in the future to engraft upon our Constitution further trespasses upon personal rights. It is an unhappy augury of the future that we have abandoned the wise maxim of our forefathers that the Federal Government may enlarge but shall not diminish individual liberty.

##### A DANGEROUS PRECEDENT

If the Supreme Court confirms this usurpation, we may in time see a bill introduced and passed in Congress defining the term "religion" in the first amendment to the Constitution. That amendment provides, in part, as follows:

"Congress shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof."

If the right of Congress to define constitutional terms by statute is once conceded, we may reasonably expect to see a bill introduced reading like this: "Any sect or aggregation of persons containing one-half per cent or more of communicants of foreign birth shall not be deemed a religion within the purview of the first amendment of the Constitution, and the practice thereof is prohibited."

##### ITS COST

The only solicitude I have in the matter is that, at a time when you are cutting off from the available revenue of the country, heretofore received, the immense volume of taxes from wines, beers, and spirituous liquors, and at a time when retrenchment should be observed in every legislative act, you are about to establish a stupendous governmental agency, with vast hordes of revenue agents, inspectors, and other emissaries, to irritate and pester the citizenship of our land and fatten themselves upon the Public Treasury. The loss of revenue due to prohibition for the next fiscal year is estimated to be about \$600,000,000. When we add to that the inevitable loss of receipts from the income tax and excess-profit tax the total reduction of the national revenue will

probably be near to \$1,000,000,000. Instead of devising schemes to further reduce the national revenue, we ought to concern ourselves with the problem of increasing it.

[From my speech of June 27, 1921]

It was not the laboring man who patronized the licentious cabaret or the all-night road house, where strong liquor debased men and ruined women. If drink conquered, it was in such places and in the homes of wealth and fashion.

There is a very old verse which runs as follows:

"The rich man has his cellar

And ready butler by him;

The poor must steer for his pint of beer

Where a saint can't choose but spy him.

The rich man's curtained windows

Hide the concerts of the quality;

The poor must share a cracked fiddle in the air,

Which offends all sound morality."

If any workingman fell from grace, you may rest assured it was not through beer.

##### WHISKY DRINKING ENCOURAGED BY PROHIBITION

Where light stimulants are used whisky drinking never flourishes. To-day whisky drinking has become a public scandal. Young men and young women who never before thought of whisky now drink it openly. To-day they open a bottle of whisky costing \$10 or \$12 as a matter of bravado, as would-be sports used to open up champagne at \$5 a bottle.

The ardor of alcoholic appetite is a factor in enhancing the price of strong drink and tempts the commercial instinct of men to pursue an enterprise which promises large profits. The reformers played right into the hands of the forces they aimed to circumvent. If they had let beer and wine alone and struck at whisky and the saloon, at which the bulk of the people of this land thought they were aiming, there would be no such thing to-day as the prohibition question. The saloons are still open, doing a more flourishing business than ever before. They are getting more for their whisky than their predecessors used to get for high-priced French wines. And who supports these so-called brothels of iniquity? Why, the workingman, whose beer was taken away for his moral uplift and improvement.

##### INTERFERENCE WITH MEDICAL PROFESSION

The real point in the controversy is how men can become so narrow and shortsighted as to meddle at all with a profession so sacred as that of the physician's and undertake to dictate to him what he shall or shall not recommend for the alleviation of human suffering. There lies the outrage against common sense and liberty. We have allowed, and will continue to allow, the physician to prescribe morphine, cocaine, heroin, arsenic, strychnine, and other deadly drugs. Under this latest effusion of fanaticism—the bill before us—the physician is left carte blanche to deal out the deadliest drugs in the pharmacopoeia, but—consistency, thou art truly a jewel—he must not recommend his patient to take a glass of beer or porter!

##### THE FORCE OF PUBLIC OPINION

At the hearing on this bill Mr. Wayne B. Wheeler said to the committee:

"Recently I was in Maine, the first State that adopted prohibition, and there met the sheriff and the officers, and they were making their request of that legislature, after 60 years' experience, for new legislation to meet the devices and schemes that had been worked out by the liquor interests to evade the law there."

There, sirs, what better evidence can you have than that to show the utter futility of attempting to thwart men's appetites? Before you can devise a workable enforcement measure you must first reconstruct human nature.

##### RESPONSIBILITY OF LEGISLATORS

The best protection for our posterity will be found in the complete severance of personal morals from the domain of legislation. If we fail in this we establish a precedent for our successors to follow when the pendulum of public opinion swings the other way.

Thomas Jefferson, in a letter to Francis W. Gilmer, said:

"Our legislators are not sufficiently apprised of the rightful limits of their power; that their office is to declare and enforce only our natural rights and duties, and to take none of them from us. No man has a right to commit an aggression on the equal rights of another, and this is all from which the laws ought to restrain him." (Works of Thomas Jefferson, vol. 7, p. 3.)

##### PROHIBITION AND MORALS

The difficulty with prohibition is that it is not a political question; it is not even an economic question, but is fundamentally a moral question, and does not yield to reason.

Morality does not submit to inexorable formulas. It is doomed to lie forever in the shadowy borderland of argument. Its usual solvent

is time and place. No fallible human being can say with absolute certainty that a certain course of conduct is ethically right or wrong. All that he knows is that if he agrees with the majority he may live in peace. If he does not, he is snuffed at or perhaps sent to jail.

It has been said that morality is a relative term; and, when we take a broad view of the human race and consider its divergence of origin and the variety of its ethnic strains, we are bound to admit that there is much truth in that contention. The Turk, sometimes called the "unspeakable Turk," deems it highly immoral to take a glass of wine, but considers the polygamous use of women as blessed in the sight of the Almighty. The Turk grafted his morality into the law—even as the Anti-Saloon men have grafted their morality into American law.

#### THE LAW AND MORALS

In ancient times, and among primitive peoples, law and religion were one. The law was a part of religion. That was when there was only one religion—the established religion. To-day, there being no established religion, the same forces of intolerance are seeking, indirectly, to engraft the teachings of their religion into the law. There is no difference in principle—the only difference is in the method. Truth is the basic doctrine in all religions, and it is well to teach it. It has never, however, in a republic, been deemed wise or just to enact the bare doctrine into law. It was soon seen that the legislator would first have to answer the eternal question, "What is truth?" The furthest he could dare go was to make a law punishing any infraction of the moral law which resulted in injury to others. So with temperance. Laws are justly made to punish drunkenness; but it is a novel doctrine in a republic that legislatures may curtail free will and punish an appetite independent of whether or not its exercise has injured the rights of others.

#### ARE WE DRIFTING BACK INTO THEOCRACY?

Civil lawyers have invented a phrase to justify the State's invasion of individual liberty. They call it "the police power of the State." Under this the State officers invade your home and tell you what kind of plumbing you ought to use or how your walls should be papered. Churchmen have invented a similar slogan, "The moral power of the State," and under it they purpose to invade your home and tell you what you shall drink at your table.

In the colonial history of this country it will be found that our good ancestors thought that in the exercise of the moral power of the State they had the right to compel the individual to go to church on the Sabbath. In Virginia the statute provided that the third offense in failing to attend divine service on the Sabbath should be punishable by death. In Massachusetts and in Connecticut "presumptuous Sunday desecration," or breaking the Sabbath, was also punishable by death. Even in tolerant Maryland, which led the way in the New World to toleration of all Christian creeds, blasphemy was punishable by "death without benefit of clergy." In all of the thirteen Colonies lashes and public exposure in the stocks were the fate of those who offended against the statutes which religion had injected into the legislation of the Commonwealths.

It is to the everlasting credit of Roger Williams that he rebelled against the exercise of such restraint upon the individual conscience. For his manly stand in defense of human liberty he was driven out of the colony of Massachusetts in the dead of winter and compelled to throw himself on the mercy of the savage but sympathetic red men of the wilderness. With a few followers, in 1636, he founded the colony of Rhode Island, at Providence Plantations, where he dedicated, as the foundation stone of the new government, the lofty, imperishable principle "that conscience was by nature free, and that it was the duty of human society to preserve intact that freedom whereof the least violation was invariably the first step to soul bondage."

This would seem to be only the enunciation of a self-evident proposition; yet old errors die so slowly that it took over two centuries of growth of American public opinion to eradicate from our State laws those medieval statutes which enchained the human conscience.

To-day we are witnessing a renewal of that old spirit of interference with individual conscience, and the inquiry is truly pertinent: "Are we drifting back into theocracy?"

The eighteenth amendment is a violation of the right of individual freedom of opinion. It brings discredit on our glorious Constitution, which up to this hour has been held holy as the sacred depository of human liberty. The sooner this amendment is repealed the better will it be for America and humanity.

[From my speech of December 22, 1925]

#### FUTILITY AND FOLLY OF PROHIBITION

While the vineyards flourish and wheat and corn and barley grow men will avail themselves of the laws of nature to turn part of the fruit of the vine and grains of the soil into appetizing and healthful beverages. The disciples of the prohibition folly might well give some thought to the astute reflection of Sir Toby Belch in Twelfth Night:

"Dost thou think, because thou art virtuous, there shall be no more cakes and ale?"

#### LOSS OF REVENUE

Before prohibition went into effect, through the operation of the Volstead law, the country was in receipt of a yearly revenue from excise taxes on wines, beers, and liquors of \$483,050,854. The following table is taken from the pamphlet published by the Treasury Department in April, 1925, entitled "Statistics Concerning Intoxicating Liquors," and shows the loss of revenue:

#### Loss of excise taxes

Year	Distilled spirits	Fermented liquors	Total
1919.....	\$365,211,252.26	\$117,839,602.2	\$483,050,854.47
1924.....	7,180,380.64	5,327.73	27,585,708.37
Loss.....	337,630,871.62	117,834,274.48	455,465,146.10

In addition to this, the enforcement of prohibition by the Federal Government has entailed an expenditure of large sums of money annually, growing larger every year. The bill before us, as I said, actually appropriates for the enforcement of the Volstead law the sum of \$23,353,489.

In addition to the loss of internal revenue, or excise taxes, we have been deprived of customs duties on the importation of ales, wine, and beer to the amount of \$20,000,000 per annum.

The duties on malt liquors, distilled spirits, and wines amounted in 1914 to \$19,674,992. To-day the duties collected from those sources are negligible.

In these two items alone, namely, internal excise duties and customs duties, the people of the United States are losing a revenue of over \$500,000,000 per year. But it is not alone in the deprivation of income that the people of the United States have suffered. The prohibition amendment and the act to enforce it have introduced a disturbing factor and upset the economic balance of the country, from the effects of which we are now suffering and will continue to suffer for many years to come.

I present a table herewith which shows one of these factors in all its enormity:

#### Destruction of personal property

There were in the United States when the Volstead Act went into effect 1,250 breweries, representing a capital invested of.....	\$792,914,000
There were 434 distilleries, representing a capital of.....	91,285,000
There were 318 wine presses, representing a capital of.....	31,516,000
Total.....	915,715,000

This represents a total economic loss to the country of nearly a billion dollars. In addition to that, it entailed the throwing out of employment of over 70,000 men directly employed, and indirectly perhaps of 30,000 more. It will pay us to glance at the following table:

#### Number of persons thrown out of work

	Number of persons	Salaries annually
Beer and ales.....	62,070	\$53,224,000
Distilleries.....	6,295	3,994,000
Wine making.....	2,292	1,194,000
Allied industries, etc.....	30,000	40,000,000
Total.....	100,657	98,412,000

The gravity of these figures can easily be conceived. It is no far stretch of the imagination to follow the fortunes of these 100,000 men deprived of a legitimate employment and source of income. If it were possible to obtain precise data I venture the thought that thousands of them have been driven into crime and form a large part of our prison population.

[From my speech of February 6, 1926]

#### RIGHT TO REPEAL BILL OF RIGHTS

If an amendment were adopted changing that system of representation, assuming that it could be adopted by a majority of the people of the United States, would that not be a breach of faith? Is it any less, then, a breach of good faith to nullify the original compact of the citizen with the Federal Government and with the other States of the Union by repealing the protective clauses of the bill of rights, which assure the citizen the guaranties of perpetual freedom?

Tyranny by the majority is no easier to bear than tyranny imposed by kings, aristocracies, or privy councils. It is true, it bears the semblance of conforming to the principles of democracy. But those principles have their limitations, as the founders of our Republic fully understood. Why did they put in our Constitution the bill of rights? For no other reason than to protect minorities.

#### HOME BREWING

The result has been the establishment of home brewing and the introduction of the liquor still in the home. These are greater evils



than that sought to be corrected. Families in which drunkenness was an utter stranger, accustomed to beer and wines, were suddenly deprived of what they considered an essential part of their household table supplies.

They did the only thing that remained for them to do. They made their own. The ancient household recipes were revived, and elderberry wine, raisin wine, and other ancient concoctions having the necessary flavor or "kick" were restored to the family larder. In such homes, and they are legion, the old status has been to some extent restored, but with this unfortunate consequence—that the shadow of hypocrisy and the gnawing consciousness of law violation disturb the peace of mind. This is the great wrong of such a tyranny of suppression. Decent, law-abiding people should not be subjected to such a hardship.

Then there is another consequence affecting the younger generation. What is their reaction to the disclosures thus made to them in the bosom of their own family? A perusal of the public press, with its daily recitals of immorality among the young, is the answer.

**PILGRIMAGE OF MOTHERS AND WIDOWS OF DECEASED SOLDIERS, SAILORS, AND MARINES OF THE AMERICAN FORCES**

Mr. WOOD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H. J. Res. 242) making an appropriation to carry out the provisions of the act entitled "An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries," approved March 2, 1929.

The Clerk read the resolution, as follows:

*Resolved, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,386,367, to remain available until December 31, 1933, to enable the Secretary of War to carry out the provisions of the act entitled "An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries," approved March 2, 1929 (45 Stat. 1508), and any acts amendatory thereof and supplementary thereto, including reimbursement of the appropriations of the War Department of such amounts as have been or may be expended therefrom in the administration of such act, and for such additional employees in the office of the Quartermaster General of the Army as the Secretary of War may deem necessary.*

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. STAFFORD. Mr. Speaker, under a reservation of objection, I think the House would be interested to know just how many of these mothers are provided for in this total appropriation of \$5,386,367. I notice from the resolution the appropriation is made available until December 31, 1933, which is the date provided in the authorization act for these pilgrimages to be made.

Mr. WOOD. I will say to the gentleman that is problematical. The War Department has the execution of this act and has been trying to ascertain the facts with reference to those who are entitled to go and having them signify whether they will or will not go.

Mr. O'CONNELL of New York. Will the gentleman yield?

Mr. WOOD. Yes.

Mr. O'CONNELL of New York. I will say to my friend that in the hearings held by the House Committee on Military Affairs on December 17 of last year the testimony of Major General Cheatham, the then Quartermaster General, stated that the number of mothers and soldier widows who would be entitled to make this pilgrimage would be approximately 6,000, at a cost of about \$800 for each person. There is no guesswork in respect to these figures, I will say to the House. General Cheatham made a personal visit to France, where he studied the whole subject at first-hand. He visited every hotel where these women will stop over there, inspected the ships in which they will be transported abroad, even the busses which will take the women from Paris to the various American cemeteries were seen and selected. Under this efficient officer, whose work on this important and humane assignment is worthy of the highest praise and should receive the acclaim of the Congress and the people, every single detail covering the progress of the afflicted mother or wife of the soldier buried in France has been arranged for down to the minutest detail. This \$5,000,000 is one of the best investments our country could make and it will bring us manifold interest in international good will and amity with our allies in the great world conflict.

Mr. WOOD. I will give the gentleman the information exactly. It is estimated this amount will be sufficient to cover the expenses of 6,100 women during this year and next year. Under the present law 11,630 are eligible, of whom 5,649 have accepted, 5,026 have declined, and 955 are noncommittal. If all go that the War Department now anticipates may go, there

will still be some leeway in this appropriation; but there is other legislation now pending before the Congress which, if passed, may require some further appropriation.

Mr. STAFFORD. The purpose of my inquiry is to ascertain whether this is to cover the expenses of those entitled to go under existing authorization, and also of those who may have the privilege under a contemplated amendment.

Mr. WOOD. The estimate is made on those entitled to go under existing law.

Mr. STAFFORD. As I understand from the hearings before the Committee on Military Affairs, the average expense is something like \$800.

Mr. O'CONNELL of New York. General Cheatham went over there and went very carefully into this matter, and that was his estimate.

Mr. COLE. This is for the expense from the time they leave home?

Mr. WOOD. Until they arrive back.

Mr. LINTHICUM. Is this a conducted tour, or does each one get so much money?

Mr. WOOD. It is a conducted tour. Some mothers may not have money enough to bring them from home to the place of departure, but they will be given money under conditions properly safeguarded.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

**ADDITIONAL APPROPRIATION FOR THE CONSTRUCTION OF RURAL POST ROADS**

Mr. WOOD. Mr. Speaker, I ask unanimous consent for the present consideration of House Joint Resolution 241, making an additional appropriation for the fiscal year 1930 for the cooperative construction of rural post roads.

The Clerk read the joint resolution, as follows:

*Resolved, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$31,400,000, to remain available until expended, for carrying out the provisions of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916 (U. S. C., title 16, sec. 503), and all acts amendatory thereof and supplementary thereto, including the same objects specified under this head in the Agricultural appropriation act for the fiscal year 1930, such sum being part of the amount authorized to be appropriated for the fiscal year 1930 by the act approved May 26, 1928 (45 Stats. 750).*

The SPEAKER. Is there objection?

Mr. SNELL. Reserving the right to object, I think the chairman of the committee ought to explain this resolution.

Mr. WOOD. I will explain it. The Bureau of Roads, Department of Agriculture, that administers the Federal appropriation for building roads is absolutely without money. All of this amount of \$31,400,000 is under contract, and some is due now and more of it will be due before the end of this fiscal year.

Mr. SNELL. Does this increase the amount appropriated, or does it come out of the 1931 authorization?

Mr. WOOD. This comes out of the amount authorized for 1930. This is due because of the roads already constructed and those under contract.

Mr. SNELL. As I understand, then, this increases the amount available \$31,000,000?

Mr. WOOD. This is out of the 1930 authorization.

Mr. SNELL. Then, as I understand, there is no increase in the appropriation for good roads for 1930?

Mr. WOOD. No; this appropriation is part of the general authorization for 1930.

Mr. BYRNS. We have not made an appropriation up to the limit of authorization.

Mr. SNELL. The full amount has not been appropriated?

Mr. BYRNS. No.

Mr. DOWELL. The authorization has been made and carried over. This is out of that already authorized by Congress.

Mr. SNELL. What is the total amount—

Mr. DOWELL. I have not the exact figures, but some has been held over from year to year when appropriation has been made.

Mr. SNELL. There is money authorized but not appropriated?

Mr. DOWELL. Yes.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.  
A motion to reconsider was laid on the table.

#### THE PINK BOLLWORM

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent for the present consideration of House Joint Resolution 240, making an appropriation to enable the Secretary of Agriculture to meet an emergency caused by an outbreak of the pink bollworm in the State of Arizona.

The Clerk read the bill, as follows:

*Resolved, etc., That the sum of \$587,500 is hereby appropriated, out of any money in the Treasury not otherwise appropriated to remain available until June 30, 1930, as an additional amount for salaries and general expenses, Plant Quarantine and Control Administration, Department of Agriculture, for the control and prevention of the spread of the pink bollworm, including the same objects specified under this head in the agricultural appropriation act for the fiscal year 1930, to enable the Secretary of Agriculture to meet an emergency caused by an outbreak of the pink bollworm in the State of Arizona: Provided, That no expenditures shall be made from this sum until an amount or amounts sufficient to compensate any farmer for one-half of his actual and necessary losses due to the enforced nonproduction of cotton in any zone established by the State of Arizona shall have been appropriated, contributed, or guaranteed to the satisfaction of the Secretary of Agriculture by State, county, or local authorities, or individuals or organizations.*

The SPEAKER. Is there objection?

Mr. SNELL. Reserving the right to object, I think the gentleman from Michigan should make some explanation as to the effect this will have on the bill that we passed last Monday under suspension of the rules.

Mr. CRAMTON. I will be glad to explain. This is to meet an acute emergency in Arizona resulting from the presence of the pink bollworm. It is to meet the situation discussed last Monday in connection with the legislation the gentleman mentions, although it is a little different phase of it.

This resolution is to make an appropriation of \$587,500, to be used by the Government in a clean-up program. The planting season in Arizona is such that it is imperative that the clean-up work, if undertaken at all, should be undertaken at once. Hence our request to bring it up in this way as an emergency.

Mr. SNELL. Is this part of the money authorized the other day?

Mr. CRAMTON. No. The money which was authorized the other day was for future appropriations of one-half the cost of the damages resulting to farmers by reason of the nonproduction of cotton in certain areas. This is an immediate appropriation with reference to a clean-up of certain areas infested, or adjacent thereto.

Mr. SNELL. The other was supposed to be an emergency, and that was why it was brought up at that time, was it not?

Mr. CRAMTON. The emergency character of that was not the appropriation itself but the authorization and the declaration of the Government's policy, a commitment to the payment of these damages. Those damages, of course, can not be figured until the end of the year, and then we will make the necessary appropriation.

Mr. SNELL. What legislation authorizes this appropriation?

Mr. CRAMTON. Existing legislation, as I recall, authorizes this appropriation.

Mr. SNELL. How much?

Mr. STAFFORD. It is \$3,000,000 in the act passed by the last Congress.

Mr. CRAMTON. That is my recollection.

Mr. SNELL. And this is a part of that authorization?

Mr. CRAMTON. That is my recollection. The gentleman from Arizona [Mr. DOUGLAS] can refresh me as to that.

Mr. STAFFORD. I think it is the act of 1929, and I believe the amount is \$3,000,000.

Mr. DOUGLAS of Arizona. The act of February 16, 1929. I can not give the gentleman the limitation of the authorization.

Mr. SNELL. But it is authorized by that act?

Mr. DOUGLAS of Arizona. Yes. It is a continuing appropriation.

Mr. CRAMTON. This is for the pink bollworm. This situation arose first in Texas on a large appropriation, as I recollect, something like \$6,000,000. Only a small portion of that was used, and some of it was transferred to an appropriation—nearly \$5,000,000—for the eradication of the Mediterranean fruit fly, or something of that kind. There is ample authorization remaining. That was in Texas and Louisiana, and this will be used in Arizona.

Mr. DOUGLAS of Arizona. The transfer of funds for the eradication of the Mediterranean fruit fly was from an authorization for compensation approved May 21, 1928. The appropriation contained in the joint resolution under consideration at the present time is authorized by the act of February 16, 1929.

Mr. SNELL. What does the gentleman from Michigan mean when he says that it is a clean-up proposition?

Mr. CRAMTON. They must go into the infested area and clean up the crops that are growing there, and everything that could act as a host to this pest.

Mr. SNELL. And has it been the policy of the Government to pay for all of that?

Mr. CRAMTON. Yes.

Mr. CLARKE of New York. The Agriculture Department has recommended this.

Mr. CRAMTON. And may I suggest further that a similar campaign was conducted in Texas and Louisiana, and it is the one outstanding instance where the Department of Agriculture has absolutely secured a clean-up.

Mr. SNELL. If they have any place like that, I am for it. Most of these places they do not clean up.

Mr. CRAMTON. This is a clean-up, and for eight years they did not have any further difficulty in that community. Now it is developing in another State.

Mr. SNELL. Well, get it through quick.

Mr. LA GUARDIA. Oh, there will be some more coming.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the joint resolution was passed was laid on the table.

#### PERMISSION TO ADDRESS THE HOUSE

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent that to-morrow, after the reading of the Journal and the disposition of business on the Speaker's desk, I may be permitted to address the House for 15 minutes.

The SPEAKER. Is there objection?

Mr. SNELL. Mr. Speaker, reserving the right to object, we have more business to-morrow than we can possibly do. At some other time I would not object, but I shall have to object to taking up any time to-morrow.

Mr. DICKSTEIN. I think the gentleman ought to withdraw his objection. I do not take up much of the time of the House.

Mr. SNELL. It is not a question of how much time the gentleman takes up, but we have a definite program for to-morrow and the next day that we ought to get through with.

Mr. DICKSTEIN. Will the gentleman consent to 10 minutes?

Mr. SNELL. No; I shall have to object to any time to-morrow.

#### PAY OF ARMY, NAVY, AND COAST GUARD

The SPEAKER. Under authority of Public Resolution 36, Seventy-first Congress, second session, which relates to the pay of the Army, the Navy, and the Coast Guard, the Chair appoints the following committee:

The Clerk read as follows:

Mr. BURTON L. FRENCH, of Idaho; Mr. JOHN G. COOPER, of Ohio; Mr. HENRY E. BARBOUR, of California; Mr. WILLIAM B. OLIVER, of Alabama; Mr. ROBERT CROSSER, of Ohio.

#### CALENDAR WEDNESDAY

The SPEAKER. This is Calendar Wednesday, and the Clerk will call the committees.

The Clerk called the Committee on the Judiciary.

#### MEDICAL SERVICE IN FEDERAL PRISONS

Mr. GRAHAM. Mr. Speaker, I call up the bill (H. R. 9235) to authorize the Public Health Service to provide medical service in the Federal prisons, which I send to the desk.

The SPEAKER. The gentleman from Pennsylvania calls up the bill H. R. 9235, which the Clerk will report.

The Clerk read the bill, as follows:

*Be it enacted, etc., That hereafter, authorized medical relief under the Department of Justice in Federal penal and correctional institutions shall be supervised and furnished by personnel of the Public Health Service, and upon request of the Attorney General, the Secretary of the Treasury shall detail regular and reserve commissioned officers of the Public Health Service, pharmacists, acting assistant surgeons, and other employees of the Public Health Service to the Department of Justice for the purpose of supervising and furnishing medical, psychiatric, and other technical and scientific services to the Federal penal and correctional institutions.*



Sec. 2. The compensation, allowances, and expenses of the personnel so detailed may be paid from applicable appropriations of the Public Health Service in accordance with the law and regulations governing the personnel of the Public Health Service, such appropriations to be reimbursed from applicable appropriations of the Department of Justice; or the Attorney General is hereby authorized to make allotments of funds and transfer of credit to the Public Health Service in such amounts as are available and necessary, which funds shall be available for payment of compensation, allowances, and expenses of personnel so detailed, in accordance with the law and regulations governing the personnel of the Public Health Service.

Mr. STAFFORD. Mr. Speaker, will the gentleman explain what procedure is now followed for giving medical aid to the inmates of our Federal prisons?

Mr. GRAHAM. There is a separate physician in each penitentiary. This is designed to make a systematic, coordinated arrangement by which the Public Health Service will attend to the wants of the prisoners, and it places the whole matter under the control of the Attorney General. It is on the House Calendar. It is in line with the bills passed in the House heretofore in regard to the service of these physicians.

Mr. STAFFORD. Is the gentleman informed if they are within the classified service?

Mr. GRAHAM. I think they are.

Mr. STAFFORD. In that case what becomes of them when the Public Health Service physicians are appointed?

Mr. GRAHAM. The Attorney General has recommended the bill. The Treasury Department has approved of it in this language:

Your proposal presents a desirable opportunity for further coordinating and increasing the efficiency of Federal public health and medical services and is in keeping with the policies of this and previous administrations. The project has been given serious study and has the sympathetic approval of this department.

Mr. STAFFORD. I assume on reading the bill further that there is nothing mandatory on the Attorney General to supplant the present physicians, and will probably make the Public Health Service physicians supervisory over them?

Mr. LA GUARDIA. They could be acting assistant surgeons under those in the Public Health Service. The Public Health Service has physicians now in the Immigration Service and in the seamen's hospitals. I suppose these assistant surgeons will be assigned in that way.

Mr. GRAHAM. Yes, Mr. Speaker, I call for the previous question.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote whereby the bill was passed was laid on the table.

#### INDEPENDENT EXECUTIVE OFFICES APPROPRIATION BILL

Mr. WASON. Mr. Speaker, by direction of the Committee on Appropriations, I submit the bill (H. R. 9546), with accompanying report (Rept. No. 612), making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1931, and for other purposes.

The SPEAKER. Ordered printed and referred to the Union Calendar.

Mr. BYRNS. Mr. Speaker, I reserve all points of order on the bill.

#### DESECRATION OF THE FLAG AND INSIGNIA OF THE UNITED STATES

Mr. GRAHAM. Mr. Speaker, I call up the bill H. R. 742 on the House Calendar.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

H. R. 742

A bill to prevent desecration of the flag and insignia of the United States and to provide punishment therefor

Be it enacted, etc., That any person or persons, firm or firms, corporation or corporations, or other organization or organizations, who, in any manner, for exhibition or display, place or cause to be placed upon the flag, colors, ensign, standard, coat of arms, or other insignia of the United States, or upon any intended representation thereof, any inscription, picture, design, device, symbol, name, advertisement, words, marks, notice, or token, or who shall possess, distribute, display, or exhibit, or cause to be distributed, displayed, or exhibited any flag, color, ensign, standard, coat of arms, or other insignia of the United States, upon which shall in any manner be placed, attached, annexed, affixed, associated, or made a part thereof, any inscription, picture, design, device, symbol, name, advertisements, words, marks, notice, or token

whatever, or who willfully and publicly show open or hostile contempt for, trample upon, or otherwise deface or defile any such flag, color, ensign, standard, coat of arms, or other insignia of the United States, shall upon conviction be fined not less than \$100, or imprisoned for not more than six months, or both, for each such offense: *Provided*, That flags, colors, ensigns, standards, coat of arms, or other insignia the property of or used in the service of the United States or any State or Territory, or the District of Columbia, may have placed thereon such inscriptions, names of actions, words, figures, marks, or symbols as are authorized by law or by the rules and regulations of the United States Government or any department or division thereof.

Sec. 2. That the words "flag," "colors," "coat of arms," or "insignia" used herein include also any picture or representation or simulation of the same.

Sec. 3. That this act shall not apply to the use, wholly disconnected from trade advertising, of the flag, colors, coat of arms, or other insignia of the United States on newspapers, books, cards, certificates, commissions, decorations, banners, pictures, stationery for correspondence, or in or on any other article or in any position where its use is purely and obviously for ornamental or patriotic purposes.

Sec. 4. That this act shall go into effect upon its passage and publication, except as to goods which shall have been made and marked and in stock at that time, and as to such goods it shall be in force six months after its passage and publication.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. REID of Illinois. Mr. Speaker, I have an amendment that I wish to offer to the bill.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Illinois?

Mr. GRAHAM. What is the gentleman's amendment?

Mr. REID of Illinois. To strike out the word "annexed." And I would like to take about two minutes to show why the bill will not do what it is intended to do.

The SPEAKER. The Chair desires to state that the parliamentary situation is this: The business in order to-day is Calendar Wednesday business. The gentleman from Pennsylvania [Mr. GRAHAM] is entitled to one hour. If he yields the floor, he will yield it entirely except as he reserves it.

Mr. GRAHAM. I will yield five minutes to the gentleman from Illinois for debate.

Mr. REID of Illinois. Mr. Speaker and Members of the House, I am in favor of this bill, but I think the wording goes too far. Under the wording of the bill it will prohibit the making of calendars and other trade things which in my opinion are very important for the use of this country. Under the wording of the bill it says that when the flag is attached to any trade advertisement its use is prohibited. Here is an advertisement [exhibiting] with a shield underneath. It is not a part of shield, and yet it might be assumed by some to be an imitation of the shield of the United States. The merchants in a town can put out pictures illustrating the making of the flag. There is no objection to John Jones advertising his store.

That does not tend to degrade the flag or degrade the United States or insignia. Of course, in those cases the flag is used with the name of the firm, and in that way we learn about the flag from the advertisement. You all recognize the fact that we learned more about the flag than we otherwise would know from calendars and almanacs hung up in the old times in the stores and schools than by any other means. These calendars are made in Joliet, in my district.

Mr. STAFFORD. Mr. Speaker, will the gentleman explain the details of the amendment?

Mr. REID of Illinois. Just strike out the words "placed, attached, annexed, affixed, associated, or made a part thereof."

Mr. WAINWRIGHT. Mr. Speaker, will the gentleman yield?

Mr. REID of Illinois. Yes.

Mr. WAINWRIGHT. Mr. Speaker and Members of the House, this amendment is entirely unnecessary. I thought my friend from Illinois had agreed with me that this bill will not apply to any such articles as he has exhibited to-day. It is not the intention of the bill to in any way interfere with the use of the flag for ornamental or patriotic purposes, but to prohibit the use of it in a way that offends the sense of the American citizen, namely, its misuse for advertising purposes.

It should be obvious to anyone who looks upon the article which the gentleman has exhibited here to-day that such use of the flag would be for ornamental and patriotic purposes, and, therefore, would come under section 3 of the bill, which I will read to the House:

That this act shall not apply to the use, wholly disconnected from trade advertising, of the flag, colors, coat of arms, or other insignia of the United States on newspapers, books, cards, certificates, commissions, decorations, banners, pictures, stationery for correspondence, or

in or on any other article, or in any position where its use is purely and obviously for ornamental or patriotic purposes.

It does not seem to me that the constituents of the gentlemen, who seem to be concerned about this subject, need have any fears whatever. The amendment proposed by the gentleman from Illinois is totally unnecessary.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. REID of Illinois. Yes.

Mr. LAGUARDIA. I will say to the gentleman from Illinois that under the State law of New York that would not be permitted if it is used in connection with an advertisement. That is the State law.

Mr. REID of Illinois. And that is what I understood this was to prohibit.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. GRAHAM. Mr. Speaker, I yield the gentleman five additional minutes.

Mr. STAFFORD. If the gentleman will permit, I think the construction placed upon the act by the author is rather a strained construction. I think that under the wording of section 3—and that is the section which applies—that character of advertising would be forbidden, because the bill provides:

That this act shall not apply to the use, wholly disconnected from trade advertising.

And this is connected with trade advertising.

Mr. WAINWRIGHT. If the gentleman will yield, the distinction I draw is this, that that in itself is not a trade advertisement, but is essentially an ornamental and patriotic article.

Mr. O'CONNELL of New York. It is an advertisement put out in a very attractive fashion, but it is an advertisement just the same.

Mr. WAINWRIGHT. Well, the distinction I would make would be that it was a patriotic and ornamental article—

Mr. O'CONNELL of New York. It is.

Mr. WAINWRIGHT. Rather than an advertisement; therefore it would not come within the provisions of this bill. I urge very strongly upon the membership of the House that such an amendment to the bill is entirely unnecessary.

Mr. REID of Illinois. Of course, the only objection I have is that the names of Senators appear on this, but the names of Congressmen do not. I will call the attention of the makers of this to that fact, because I think the youth of America should be familiar with the names of the Members of the House as well as the Members of the Senate. I think we should try to give the young men of the country the names of Members of the House as well as the names of Cabinet officers and their departments.

Mr. SNELL. Will the gentleman yield?

Mr. REID of Illinois. Yes.

Mr. SNELL. Is not that the kind of a calendar a feed company or a coal company in any small town would use and put out in connection with advertisements? It is purely advertising, is it not?

Mr. REID of Illinois. It is advertising in one sense.

Mr. SNELL. And they put it out for just that purpose.

Mr. REID of Illinois. Certainly. It would be used to advertise, for instance, the John Jones Coal Co.

Mr. STAFFORD. What is the amendment proposed by the gentleman?

Mr. REID of Illinois. To strike out the words, in line 3, "placed, attached, annexed, affixed, associated, or," and make it "in any manner be made a part thereof."

Mr. STAFFORD. Will the gentleman kindly indicate that again?

Mr. REID of Illinois. So it will read "in any manner be made a part thereof," taking out the words "placed, attached, annexed, affixed, associated, or." That certainly would not take out the idea the gentleman from New York [Mr. WAINWRIGHT] has.

Mr. GRAHAM. Has the gentleman the amendment in writing?

Mr. REID of Illinois. I have. Mr. Speaker, I ask unanimous consent to have the amendment read for information.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the amendment may be read for information. Is there objection?

There was no objection.

The Clerk read as follows:

Amendment proposed by Mr. REID of Illinois: On page 2, line 3, after the word "be," strike out the words "placed, attached, annexed, affixed, associated, or."

Mr. REID of Illinois. That confines the law to the desecration of the flag and would permit the use of the flag for illustration purposes.

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent that this amendment may be inserted in the bill.

The SPEAKER. If the gentleman from Pennsylvania is not opposed to the amendment, and he having control of the floor, the proper procedure would be for the gentleman from Pennsylvania to offer the amendment himself.

Mr. GRAHAM. Mr. Speaker, I offer that amendment.

The SPEAKER. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM: Page 2, line 3, after the word "be" strike out the words "placed, attached, annexed, affixed, associated, or."

Mr. LAGUARDIA. Mr. Speaker, I desire recognition in opposition to the amendment.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from New York?

Mr. GRAHAM. Mr. Speaker, I yield three minutes to the gentleman from New York.

Mr. LAGUARDIA. Now, gentlemen, if you want to pass this bill, pass it, but if you want to destroy the purpose of the bill by adopting the pending amendment what is the use of going through the motion of passing the bill and encumbering the statute books? The purpose of this bill is to avoid the use of the flag for advertising purposes, and the minute you attach, affix, and connect your flag with the John Jones Hay & Feed Co. or the Standard Sanitary Supply Co., you are defeating the purpose of the bill. [Applause.] Let us be perfectly frank about it. We have a law in New York which specifically prohibits the use of the flag for advertising purposes. We took this matter up in the committee and we went very thoroughly into it. I will say to the gentleman from Illinois that the bill seeks to stop the use of the flag in the manner indicated by him, and if this amendment is adopted I, for one, shall vote against the passage of the bill, because there is not any other desecration of the flag in this country except for advertising purposes.

Mr. REID of Illinois. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. REID of Illinois. The gentleman from New York [Mr. WAINWRIGHT] says it does not apply and he is the author of the bill.

Mr. DYER. I think the gentleman from New York [Mr. WAINWRIGHT] is mistaken. It will do exactly what the gentleman contends. It will permit the flag to be used for advertising purposes.

Mr. LAGUARDIA. Then the gentleman agrees with me?

Mr. DYER. Absolutely.

Mr. LAGUARDIA. Of course. I will say to the gentleman, we have had a similar statute in New York for several years and all the cases we had in the early days of the enactment of the statute were advertising cases. We have no trouble now. So if this amendment is adopted, vote down the bill because the very purpose of your bill is defeated.

Mr. GRAHAM. Mr. Speaker, in offering this amendment I am not to be considered as sponsoring or desiring it to be passed. I wish only to submit it to the House for their judgment. If they choose to adopt the amendment, all right; if not, they will defeat it by voting against it.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. GRAHAM. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM, a motion to reconsider the bill was laid on the table.

Mr. WAINWRIGHT. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. WAINWRIGHT. Mr. Speaker, I ask unanimous consent to extend my remarks upon the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WAINWRIGHT. Mr. Speaker, the consideration of a bill of this importance should not pass without at least a brief statement of its purpose. As its title indicates, it proposes to provide a Federal statute for the punishment of insult to the flag of the United States, and for the use, or rather misuse, of that flag for advertising purposes. An identical bill passed the House in the last Congress. Thus far, though 47 States have enacted flag desecration laws, Congress has failed to enact



legislation for the protection of the emblem of the national sovereignty except as I shall hereafter relate. As our Supreme Court has declared, it is primarily within the province, if not the duty, of the Federal Government to guard and protect the emblem of our national sovereignty from desecration. As the flag was adopted by an act of Congress, it should be protected throughout the Union by an act of Congress.

During the late war provision was made for the punishment, when the Nation was at war, of persons who uttered disloyal language concerning the flag, or language intended to bring the flag into contempt or disrespect. But the operation of that statute ceased with the end of the war. Such a statute is equally appropriate, as resort to it may be equally necessary, in time of peace as in time of war. There is, indeed, a Federal statute to punish the improper use of the flag in the District of Columbia, but no Federal statute to resort to outside of the District.

The question has been raised as to whether the adoption of a Federal statute would supersede the State laws already in force. This question was, I believe, seriously and carefully considered by the distinguished lawyers upon the Judiciary Committee, the majority of whom arrived at the conclusion that it would necessarily have no such effect, but that a concurrent jurisdiction might well exist to the manifest advantage of the object in view. If it be asked why a Federal law is necessary, in view of the willingness of the States to protect the national emblem within their own borders by their own laws, I would say that apart from the expediency and propriety, a Federal statute may well at some time and in some place prove vitally necessary, where, for any reason, the State statute has become inoperative or is not enforced. I refrain, Mr. Speaker, from reverting to or enlarging upon the obvious sentimental considerations involved in the discussion of this measure, and conclude these brief remarks with the expression of the fervent hope that this bill may be enacted into law at this session, in order that the Nation may at last be provided with a national flag desecration law.

#### HOLDING OF FEDERAL COURT IN NORTH DAKOTA

Mr. GRAHAM. Mr. Speaker, I call up the bill (H. R. 185) to amend section 180, title 28, United States Code, as amended. The Clerk read the bill, as follows:

*Be it enacted, etc.,* That section 99 of the act to codify, revise, and amend the laws relating to the judiciary, as amended by the act of April 10, 1926 (sec. 180, title 28, U. S. C.), be amended to read as follows:

"Sec. 99. That the State of North Dakota shall constitute one judicial district, to be known as the district of North Dakota. The territory embraced on the 1st day of January, 1916, in the counties of Burleigh, Logan, McIntosh, Emmons, Kidder, McLean, Adams, Bowman, Dunn, Hettinger, Morton, Stark, Golden Valley, Slope, Sioux, Oliver, Mercer, and Billings shall constitute the southwestern division of said district; and the territory embraced on the date last mentioned in the counties of Cass, Richmond, Barnes, Sargent, Ransom, and Steele shall constitute the southeastern division; and the territory embraced on the date last mentioned in the counties of Grand Forks, Traill, Walsh, Pembina, Cavalier, and Nelson shall constitute the northeastern division; and the territory embraced on the date last mentioned in the counties of Ramsey, Benson, Towner, Rolette, Bottineau, Pierce, and McHenry shall constitute the northwestern division; and the territory embraced on the date last mentioned in the counties of Ward, Williams, Divide, Mountrail, Burke, Renville, and McKenzie shall constitute the western division; and the territory embraced on the date last mentioned in the counties of Griggs, Foster, Eddy, Wells, Sheridan, Stutsman, La Moure, and Dickey shall constitute the central division. The several Indian reservations and parts thereof within said State shall constitute a part of the several divisions within which they are respectively situated. Terms of the district court for the southwestern division shall be held at Bismarck on the first Tuesday in March; for the southeastern division, at Fargo, on the first Tuesday in December; for the northeastern division, at Grand Forks, on the second Tuesday in November; for the northwestern division, at Devils Lake, on the first Tuesday in October; for the western division, at Minot, on the third Tuesday in October; and for the central division, at Jamestown, on the last Tuesday in February. The clerk of the court shall maintain an office in charge of himself or a deputy at each place at which court is held in his district: *Provided*, That until such time as a new public building be erected at the city of Fargo, all cases now pending in the southeastern division, or hereafter brought there, be tried at Grand Forks."

With the following committee amendment:

Page 3, line 8, after the word "all," insert the word "jury."

The committee amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### UNITED STATES DISTRICT COURT AT LAS VEGAS, NEV.

Mr. GRAHAM. Mr. Speaker, I call up the bill (H. R. 7643) to establish a term of the District Court of the United States for the District of Nevada at Las Vegas, Nev.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the second sentence of section 94 of the Judicial Code, as amended (U. S. C., title 28, sec. 174), is amended to read as follows: "Terms of the district court shall be held at Carson City on the first Mondays in February, May, and October, and at Las Vegas on the first Mondays in March."

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the bill for amendment.

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent to amend the bill by striking out the word "Mondays" and inserting the word "Monday."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk reported the following committee amendment:

In line 8, strike out the words "and September."

The committee amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### NATIONAL STOLEN PROPERTY LAW

Mr. GRAHAM. Mr. Speaker, I call up the bill (H. R. 119) to prohibit the sending and receipt of stolen property through interstate and foreign commerce.

The Clerk read the bill, as follows:

#### H. R. 119

A bill to prohibit the sending and receipt of stolen property through interstate and foreign commerce

*Be it enacted, etc.,* That this act may be cited as the "national stolen property law."

SEC. 2. Whoever shall send or transport, or attempt to send or transport, or cause to be sent or transported, from one State or Territory of the United States or the District of Columbia, to or into any other State or Territory of the United States or the District of Columbia, or from the United States into any foreign country, or from any foreign country into the United States, any property or thing of value, theretofore stolen or taken feloniously by fraud or with intent to steal or purloin, knowing the same to have been so stolen or taken, or whoever, not being a common carrier, shall so send or transport, or attempt to send or transport, or cause to be sent or transported, any such property or thing of value under such circumstances as should put him upon inquiry whether the same had been so stolen or taken, without making reasonable inquiry in good faith to ascertain the fact, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years, or both.

SEC. 3. Whoever shall buy, receive, possess, conceal, sell, or dispose of any property or thing of value, which is moving as, or which is part of, or which constitutes, interstate or foreign commerce, or commerce between the District of Columbia and some State or foreign nation, and which theretofore or while so moving or constituting such part, had been stolen or taken feloniously by fraud or with intent to steal or purloin, knowing the same to have been so stolen or taken, or whoever shall buy, receive, possess, conceal, sell, or dispose of any such property or thing of value under such circumstances as should put him upon inquiry whether the same had been so stolen or taken, without making reasonable inquiry in good faith to ascertain the fact, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years, or both.

SEC. 4. Prosecution for an offense under this act may be conducted in any district in or through which the property or thing of value has been transported or in which any of the acts hereby forbidden may have occurred.

SEC. 5. The provisions of this act shall not apply in cases where the property or thing of value is a negotiable instrument and has been dealt with or acquired under conditions which would constitute a person so dealing therewith or acquiring a holder in due course as defined in the negotiable instrument act or law of the State where such property is dealt with or acquired.

SEC. 6. Nothing in this act contained shall affect any law of any State or the right of prosecution thereunder. A judgment of conviction or acquittal on the merits under the law of any State shall be a bar to any prosecution hereunder for the same act or offense.

SEC. 7. This act shall take effect immediately.

Mr. RAMSEYER. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. RAMSEYER. I rise to ask the gentleman from Pennsylvania a question as to the length of time for debate we shall have on this bill. This bill is sweeping and limitless in its provisions. I think there should be full debate. It ought to be thoroughly explained, and gentlemen who want to oppose the bill should have full opportunity to be heard.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Iowa?

Mr. GRAHAM. For a question.

Mr. RAMSEYER. I do not know how many gentlemen are opposed to the bill, but I shall oppose it in this form.

Mr. GRAHAM. I will yield to the gentleman five minutes.

Mr. RAMSEYER. Five minutes is nothing; it will take a half hour to get started. Here is a bill that the committee has not sent to the Department of Justice for consideration and to obtain the views of that department; a similar bill that formerly was referred to the Committee on Interstate and Foreign Commerce was referred by that committee to the Department of Justice, and that department disapproved the bill and gave very forceful reasons why such a bill ought not to be enacted into law. The present Department of Justice has not had it.

Mr. GRAHAM. Is the gentleman proceeding under the five minutes I yielded to him?

Mr. RAMSEYER. No; I am not.

Mr. GRAHAM. I will yield the gentleman 20 minutes.

Mr. RAMSEYER. That is to start with. Are you going to have some one discuss the reasons for the bill?

Mr. GRAHAM. We will take care of that.

Mr. RAMSEYER. Very well, I will take the 20 minutes.

Mr. BANKHEAD. Mr. Speaker, a parliamentary inquiry. This bill is of very far-reaching importance; would not the gentleman from Pennsylvania, in view of the character of this bill, agree to consider the bill in Committee of the Whole, so that we may have ample opportunity to consider and offer amendments to it without getting permission of the gentleman from Pennsylvania?

Mr. RAMSEYER. A bill of this importance ought to be so considered.

Mr. GRAHAM. As a matter of fact, I will say to the gentleman, the bill is not a new bill; it was up in the last Congress and passed the House.

Mr. RAMSEYER. I can not help that.

Mr. GRAHAM. I know the gentleman can not; but I am telling the gentleman that it is not sought to be put through surreptitiously or expeditiously. It was considered and public hearings were had on it when it was House bill 10287, and here are the public hearings, quite extensive.

Mr. RAMSEYER. I have read them.

Mr. GRAHAM. The bill was considered in the subcommittee, of which the gentleman from Michigan [Mr. MICHENER] was chairman. I do not want any bill passed without full consideration. I will ask the gentleman from New York [Mr. LA GUARDIA], the author of the bill, to explain it, and yield him 10 minutes.

Mr. BANKHEAD. A parliamentary inquiry. How is this bill being considered?

The SPEAKER. It is on the House Calendar and is considered under the rules of the House.

Mr. BANKHEAD. Then we are at the mercy of the gentleman from Pennsylvania.

Mr. SNELL. As I understand it, Mr. Speaker, the gentleman from Pennsylvania has an hour and he can yield such time as he sees fit and move the previous question when he sees fit.

The SPEAKER. That is correct.

Mr. RAMSEYER. Will the gentleman yield for this suggestion? Why not agree to an extension of time to two hours, let some one opposed to the bill have one hour for debate only. Then when you come to the amendments and moving the previous question the gentleman from Pennsylvania will not lose any of his rights.

Mr. MOORE of Virginia. Ask unanimous consent that that may be done.

Mr. RAMSEYER. Mr. Speaker, I ask unanimous consent that the time for debate on this bill be fixed at not exceeding two hours, one-half of that time to be given to those opposed to the bill and one-half to the proponents of the bill, for the purpose of debate only.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the time for debate be extended one hour, one-half

to be controlled by the gentleman from Pennsylvania in his own time, and the other half by the gentleman from Iowa, reserving to the gentleman from Pennsylvania the right to move the previous question. Is there objection?

Mr. KETCHAM. Mr. Speaker, reserving the right to object, I have no disposition to prevent a thoroughgoing discussion of this important measure, for I understand and believe that later in the day the consideration and possibly the final vote on a bill in which we are all interested is to come up. I hesitate to do anything that would prejudice the final conclusion of that matter. I want to understand whether or not at the conclusion of the two hours of debate this matter will be finally disposed of, or whether some more postponements or additional debate will be required or asked for.

Mr. DYER. Mr. Speaker, this is Calendar Wednesday, and the day belongs to the committee if we desire to use it.

Mr. RAMSEYER. Of course, the oleo bill, if it is not reached to-day, will be taken up in the morning.

Mr. KETCHAM. But under the procedure planned, I want to be assured that that will be the case. Do I so understand?

Mr. RAMSEYER. I think the majority leader will so assure the gentleman.

Mr. TILSON. The oleomargarine bill is the unfinished business and would naturally take precedence to-morrow, though, of course, that is a matter which can be determined by the House.

Mr. KETCHAM. In case it is not reached to-day.

Mr. TILSON. It is hoped that it may be finished to-day after the Committee on the Judiciary has finished with the bills to be called up by that committee.

Mr. KETCHAM. I understood that an agreement had been reached that no other matter would occupy the attention of the House; but upon the information that the oleo bill is the unfinished business, unless displaced by a vote of the House, I shall not object.

Mr. TILSON. That would be the normal order.

The SPEAKER. Is there objection?

Mr. GRAHAM. Mr. Speaker, reserving the right to object, I do not want to agree to two hours. I will agree to an hour and a half, to be divided as the gentleman from Iowa suggests. I want time to consider the other bill, which is in the hands of the committee and ready for presentation to the House to-day. I do not want anything to interfere, to carry it over.

Mr. RAMSEYER. Why not call up the other bills first if the gentleman thinks this might crowd them out and dispose of them. The gentleman will agree that this is a sweeping measure, far-reaching in its effects, and the House should have ample opportunity to consider it fully.

Mr. LA GUARDIA. It has been before the House for a long time.

Mr. RAMSEYER. But we have 80 new Members who never heard of it and 200 old ones who never gave it any thought.

Mr. MOORE of Virginia. Does the gentleman from Pennsylvania anticipate that the other bill to which he refers is going to excite discussion?

Mr. GRAHAM. I do.

Mr. MOORE of Virginia. I understand it is a simple measure.

Mr. GRAHAM. But I understand there are those who are converting it into an intricate measure.

The SPEAKER. Is there objection?

Mr. GRAHAM. Mr. Speaker, I object.

Mr. RAMSEYER. Make it an hour and a half.

Mr. GRAHAM. I agree to that.

The SPEAKER. The difficulty about that is that the gentleman from Pennsylvania is entitled to the remainder of his hour, and he has now consumed 10 minutes.

Mr. GRAHAM. An hour and a half to be equally divided between the gentleman from Iowa and myself from now on.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the time for debate upon this bill be fixed at one hour and a half, one half to be controlled by the gentleman from Pennsylvania and the other half by the gentleman from Iowa, the gentleman from Pennsylvania reserving at all time his right to move the previous question. Is there objection?

Mr. DICKSTEIN. Mr. Speaker, reserving the right to object, after the hour and a half is this bill to be subject to amendment?

Mr. GRAHAM. I propose to move the previous question at the close of the hour and a half.

The SPEAKER. Is there objection?

There was no objection.

Mr. RAMSEYER. Mr. Speaker, if agreeable to the gentleman from Pennsylvania, I now yield five minutes to the gentleman from Arkansas [Mr. WINGO] in opposition to the bill.

Mr. WINGO. Mr. Speaker, I have great respect for the Committee on the Judiciary, and I hesitate to oppose any report that that committee makes, but the far-reaching effect of this bill



impels me to enter my protest, which, of course, will be futile, against its passage. No bill has been introduced in Congress since I have been here which I think is as far-reaching as this in its effects not only upon the philosophy underlying our judicial system in this country but upon collateral questions. If I were a wet and also wanted the courts to break down with prohibition cases, I would try to pile some more business on them, as this bill will, involving petty larceny cases, so that the courts would be swamped.

Mr. LAGUARDIA. Oh, Mr. Speaker, that is not a fair statement. The gentleman is too fair a debater to say that.

Mr. WINGO. The gentleman misunderstood me. I said if I were a wet and wanted to do this, I did not say that the gentleman wanted to do it. I said if I were a wet and wanted to load them down with business. I think that is a fair argument.

Mr. LAGUARDIA. If the gentleman will look at the sponsors of this bill I think he would not say that.

Mr. WINGO. Oh, it has some very fine sponsors that I am fond of personally. I have no personal criticism to make of anyone, and I am most unfortunate if I have expressed myself in such a way that anyone thinks there is any personal reflection in my remarks. Some of the loveliest characters in this House believe in this bill and are sponsoring it, and some of the finest characters and ablest lawyers in the United States are sponsoring it. What do you do? You do just what I predicted you would do when you passed the Dyer automobile bill. I said then that you would bring in here a bill some time that would give the Federal courts jurisdiction of petty-larceny cases, and this will do it. One reason why prohibition is not better enforced, as it might be, is because of the congestion of the court docket. If I were defending bootleggers and rum runners and wanted to delay the business of the Federal courts, I would do it by piling up more and more business upon them. I challenge any lawyer in this House to deny this. Under this bill if a boy steals an apple in Union Station and gets on one of these commutation trains going to Rockville, Md., and does not finish eating the apple before he gets across the Maryland line he can be haled into the Federal court on a charge of petty larceny.

That is what he would be guilty of—petty larceny—though, of course, you would give a bigger name to the newly created Federal offense.

I love the courts of this Nation. They are the bulwarks of our liberties. I was delighted yesterday when upon the resignation of the great and much-loved Chief Justice the President without hesitation selected the one outstanding lawyer of the United States to fill the position. [Applause.] I do not always agree with the Attorney General, but he is a great lawyer of high character, and he has a great problem, and the President has a great problem, to relieve the congestion in the courts. I beg you not to further burden the Federal judge and make him the presiding officer of a police court, and have him try a petty larceny case merely because stolen property happens to be taken across a State line. Have our State courts fallen down, so that they can not function and try cases of petty larceny, as well as cases of grand larceny. I challenge you to name a State that fails to prosecute larceny cases. If you have any desire to protect the Federal courts, think of our free institutions and our liberties, and do not further hamper and overload the Federal courts. Trust the police courts of your cities and the judges of your State courts. I know of judges of the circuit courts of my State who are enforcing the larceny laws as prescribed under this bill.

Mr. ELLIS. I was just going to remark that it is not only an expression of distrust of our police courts but distrust of all our trial courts, the courts of unlimited jurisdiction in all our States.

Mr. WINGO. Yes. I have State judges in my district who are as able as any Federal judge ever was, and they are enforcing the laws in cases covered by this bill. [Applause.]

Mr. GRAHAM. Mr. Speaker, I just want to take five minutes in which to make a short statement. This bill was before us in the last Congress—the Seventieth Congress. We had full hearings on it. It was in the hands of a subcommittee headed by our colleague and good friend from Michigan [Mr. MICHENER] who is always careful and watchful of the rights of everybody. He reported it out of committee with a unanimous report.

To show that this is not a measure jumped at hastily, I want to call your attention to the latter part of the report. I read:

Mr. M. O. Garner, general counsel of the National Surety Co., representing the Surety Association of America, said:

"We are squarely behind any measure which will make it simpler and easier to apprehend both the person stealing and the person re-

ceiving the goods, and I just came here to lend my support to that principle."

Mr. S. C. Meade, representing the Merchants' Association of New York, said:

"We come before you this morning for the purpose of commending to your favorable consideration a measure of the sort which is before you."

The following persons appeared before the committee at the hearings, indorsing the bill:

Hon. Newton D. Baker, acting chairman National Crime Commission.  
Mr. J. Weston Allen, American Bar Association and National Crime Commission.

Hon. William Green, president American Federation of Labor.

Maj. Richard Sylvester, honorary president International Association of Police Chiefs.

Mr. Lewis Hahn, manager-director National Retail Dry Goods Association.

Mr. Alfred P. Thom, Jr., Association of Railway Executives and American Railway Association.

Mr. John Nicholson, United States Shipping Board.

Mr. James E. Baum, American Bankers' Association.

Mr. Thomas B. Paton, American Bankers' Association.

Mr. Albert A. Clune, Silk Association of America.

Mr. Maxwell S. Mattuck, National Association of Credit Men.

Mr. M. O. Garner, National Surety Co.

Mr. James H. Noyes, Jewelers' Security Alliance of the United States.

Mr. S. C. Meade, Merchants' Association of New York.

Mr. Justin Miller, dean, Law School, University of Southern California—

And others.

The bill was considered carefully and fairly by the subcommittee, and its report was adopted without objection in the main committee, and it is now before the House for action. The illustration of the apple in the case of a boy taking a bite in one State and finishing it in another is de minimus non curat lex. [Applause.]

Mr. RAMSEYER. Mr. Speaker, I would like to have the attention of the Members of the House in order to get before them the scope of this piece of proposed legislation.

The gentleman who preceded me [Mr. GRAHAM] read a whole list of names of people who indorsed this bill. We have got to pass this bill upon our own responsibility. I do not know how much further we are going in creating crimes and overfilling our penitentiaries. I think sometimes we ought to figure out just what percentage of the population we ought to have in our penal institutions in order to maintain a healthy social condition, build our penal institutions accordingly, and then proceed to legislate to fill them up to capacity.

Everyone knows that at the present time the Federal penal institutions are filled to more than their capacity. Some of them have twice as many inmates as they were built for. Legislative acts in the last few years have tended to increase our prison population; and our prisons are filled up far beyond capacity, and the prisoners are cared for in a way that is a disgrace to our country.

The foremost acts that have tended to fill up our Federal penal institutions are the Volstead Act, the Harrison Act, the Mann Act, and the Dyer Act. The gentleman from Missouri [Mr. DYER] stood up here the other day and said that unless the courts exercised more humanity in sentencing young boys to these institutions for violation of the Dyer Act he would introduce a bill to repeal that act.

Mr. MOORE of Virginia. What act is that?

Mr. RAMSEYER. That act, the Dyer Act, makes it a crime to transport a stolen automobile over a State line.

Now we come here to another act, the LaGuardia Act, which does not distinguish between petty larceny and grand larceny. Any such stolen property carried across a State line subjects the person committing the offense to trial in a Federal court. Whether the value of the property is a dollar or a million dollars does not make any difference.

It appears from the report accompanying this bill that what the committee is trying to get at is some kind of a person or aggregation known as the "fence." I do not know exactly what that is, unless it is a person who makes it a business of receiving stolen goods, hoarding them, and disposing of them. If the Judiciary Committee will draw up a bill limiting the crime to what is known as the "fence," there might be some justification for the consideration by Congress of a bill along that line.

Some of us live close to State lines. I live within 10 miles of the Missouri line. On the Mississippi River we have the tri-cities—Davenport, Rock Island, and Moline—and they are in two States. A little farther up the Mississippi River are two large cities having more population than the tri-cities, known

as the twin cities, but in the same State. If stolen property were carried from St. Paul to Minneapolis the offender would have to be tried under the State law, but if an offense was committed in Rock Island by the stealing of property worth a nickel or \$1,000 and the property were carried into Davenport, the offender could and probably would be tried in the Federal court.

Mr. COCHRAN of Missouri. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. COCHRAN of Missouri. Am I correct in assuming that if a man stole a \$10 watch in St. Louis, Mo., and took it across the river, which takes five minutes, to East St. Louis, Ill., that under the terms of this bill, if the judge so desired, he could send the offender to jail for 10 years?

Mr. RAMSEYER. Yes; a \$10,000 fine or 10 years in prison, or both. The gentleman from New York [Mr. LaGuardia], the author of this bill, I see, has gone the famous 5-and-10 law one better. This is a 10-and-10 law.

This LaGuardia bill when first introduced was sent to the Committee on Interstate and Foreign Commerce. At that time the penalty was five years and \$5,000; but when it was referred from the Committee on Interstate and Foreign Commerce to the Judiciary Committee, for some reason the author of the bill—or the committee, if it was considered by the committee—doubled the penalty in both instances.

There are some figures contained in the report. I do not know where they got the figures, but the report says that—

The operations of the "fence" cost the community an enormous amount—a survey of the authorities places the estimate conservatively at \$500,000,000 annually.

Mr. LaGuardia. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. LaGuardia. The gentleman wants to know where those figures came from. They were compiled by insurance companies, by bankruptcy courts, and by the police association.

Mr. RAMSEYER. Understand me, if you can frame a bill limited to the so-called "fence," that should be carefully considered.

Mr. LaGuardia. That is the purpose of this bill.

Mr. RAMSEYER. But the bill is not limited to the "fence." What you are trying to do here is to bring all larceny, burglary, and receiving stolen goods cases from the State courts to the Federal courts whenever the goods have been carried across a State line. Another thing I want to call your attention to is the consideration given by the committee—or, rather, the lack of consideration. About 10 days ago, when my attention was called to this bill, I called up the Department of Justice, the Attorney General's office, to find out what his views were on this bill. I know it is the practice of every committee I have been on to ask for the views of the department affected by a bill. That was true when I was a member of the Post Office Committee.

When bills were referred to that committee they were sent to the Post Office Department for the opinion and views of that department. I am now a member of the Ways and Means Committee. Bills that come before us there are usually referred to the Treasury Department for the opinion and views of that department. When I was a member of the Rules Committee we had bills before us that affected various departments. If the committee that was urging a rule for the consideration of a certain bill had not consulted the department affected, then the Rules Committee itself often consulted the department in order to ascertain the attitude of the department on that particular bill. I do not know what the practice of the Judiciary Committee is. Its members probably do not need the advice of any department and especially not the advice of the Department of Justice, which is more directly affected by the bills coming before that committee than any other department. About 10 days ago I was told that the Judiciary Committee had never referred this bill to the Department of Justice for its views. A few days later I discovered this bill had been before the Committee on Interstate and Foreign Commerce and then by searching diligently I discovered that that committee had referred the bill to the Department of Justice for its views. I have here before me a carbon copy of a letter from former Attorney General Sargent expressing the then attitude of the Department of Justice toward this bill, and I am going to read it to you. I was told, when I was communicating with the Department of Justice, that the Senate Judiciary Committee had a similar bill, and that that bill would be referred to the Department of Justice and that the present Attorney General in the near future will give his views on it. This morning I called up the Judiciary Committee of the Senate and was advised that they had sent the bill to the Department of Justice

but that the Department of Justice had not yet reported its views.

Now, understand what I am about to read are carbon copies of a letter that came from the Department of Justice about two years ago. The present Attorney General has not expressed himself on this bill. What is here presented expresses the views of the Department of Justice under Attorney General Sargent. This letter is addressed to Hon. JAMES S. PARKER, chairman of the Committee on Interstate and Foreign Commerce, and it says:

FEBRUARY 17, 1928.

HON. JAMES S. PARKER,

*Chairman Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: I have the honor to refer further to your letter of December 6, inclosing H. R. 96, a bill "To prohibit the transportation, sale, and reception of stolen property in interstate and foreign commerce," and to inclose herewith copies of office memoranda relative thereto.

There is also inclosed a copy of a letter from the Director of the Bureau of the Budget, in which it is stated that the legislation proposed in this bill is in conflict with the financial program of the President.

Respectfully,

JOHN G. SARGENT, *Attorney General.*

Here is the letter from the Bureau of the Budget:

*BUREAU OF THE BUDGET,  
Washington, February 16, 1928.*

MY DEAR MR. ATTORNEY GENERAL: I have from Assistant Attorney General Marshall a letter dated January 18, 1928, submitting in compliance with Bureau of the Budget Circular No. 49 a copy of H. R. 96 entitled "A bill to prohibit the transportation, sale, and reception of stolen property in interstate and foreign commerce," and stating that it is proposed to recommend to Congress favorable consideration of this legislation.

In reply I have to advise you that the legislation proposed in this bill is in conflict with the financial program of the President.

Sincerely yours,

H. M. LORD, *Director.*

The honorable the ATTORNEY GENERAL.

Mr. LaGuardia. That was not the same bill.

Mr. RAMSEYER. The gentleman from New York volunteers the information that this was not the same bill, but the purpose of this bill is identical with the purpose of the bill that was before the Committee on Interstate and Foreign Commerce. There is a little difference in phraseology—the difference is in phraseology only.

Mr. GRAHAM. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. GRAHAM. What is the number of the bill upon which the gentleman has these opinions?

Mr. RAMSEYER. It is H. R. 96, which was before the Committee on Interstate and Foreign Commerce, introduced December 5, 1927, and the purpose of the bill is identical with the bill that is now before us. Evidently the bill was rereferred from the Committee on Interstate and Foreign Commerce to the Judiciary Committee, to which I think it properly belongs.

Mr. GRAHAM. The bill in the Seventieth Congress was H. R. 10287.

Mr. RAMSEYER. They are the same bills, but numbered differently. Now, this is a memorandum from the Department of Justice, and I want the Members of the House to get this carefully, because this memorandum goes right to the heart of this bill. This memorandum was prepared by Mr. J. Edgar Hoover, Director of the Bureau of Investigation; but it is the memorandum which was inclosed by the Attorney General in his letter to the chairman of the Committee on Interstate and Foreign Commerce, and, therefore, had the approval of the Attorney General, Mr. Sargent:

*DEPARTMENT OF JUSTICE,  
BUREAU OF INVESTIGATION,  
Washington, D. C., February 8, 1928.*

Memorandum for Mr. Marshall.

(Attention: Mr. Baldwin.)

I beg to acknowledge the receipt of your memorandum of the 2d instant, inviting attention to H. R. 96, a bill to prohibit the transportation, sale, and reception of stolen property in interstate and foreign commerce.

I note that the only limitation placed upon the term "stolen property" is that the stolen property shall include anything of value wrongfully appropriated in such manner as to constitute larceny according to the United States Criminal Code (sec. 466, U. S. C. title 18). A reference to this section of the United States Code indicates that it is



all-embracing and places no limitation on the value of the property stolen, but does mete out a more severe punishment for the stealing of property valued at \$50 or more. This means that any and all stolen property, whether valued at \$1 or \$1,000, if moved from one State to another, would be a proper subject for investigation and prosecution by the Federal Government.

There is no question about that. There is not a member of the Committee on the Judiciary who will dispute it.

This bill obviously is designed to reach the so-called "fence" who deals in stolen property removed from another State. The effect, however, of any legislation of this kind, it seems to me, would mean an immediate deluge of complaints of violations thereof, and would make a veritable police force of Federal investigating agents throughout the country. If the property of any person, such as a stickpin, watch, etc., were stolen by a pickpocket and found in another State, it would then be necessary for the Federal Government to step in and conduct an investigation and prosecution.

I realize that the proponents of this bill will say it is simply an extension of the national motor vehicle theft act, and that they will also refer to the act punishing the theft of property in interstate transit by common carriers as a similar law. If the proposed legislation were enacted and the jurisdiction for the investigation of violations of the same placed under this bureau, it would require a large number of special agents to properly enforce it.

Mr. LaGUARDIA. Will the gentleman yield there?

Mr. RAMSEYER. I wish to read this first, then I will yield.

Mr. MOORE of Virginia. Will the gentleman let me interrupt him to go back a moment to the similarity of the bill—

Mr. RAMSEYER. I will yield just as soon as I get through reading this letter.

Mr. MOORE of Virginia. I think the gentleman would like to have some information on that.

Mr. RAMSEYER. I continue with the views of the Department of Justice:

In the present wording of the bill there is no provision for placing investigative jurisdiction under any one particular bureau or department. Should the act be passed, I am convinced that the jurisdiction should be specifically placed. Furthermore, I believe that if the act should be passed there should be placed a limitation of not less than \$1,000 on the value of property which, if stolen, would bring the same within the provisions of the bill.

It is not placed in the bill before you, either. Of course, you gentlemen on the Judiciary Committee never heard of the attitude of the Department of Justice before. Why you did not want it I do not know, but certainly what is coming here from the Department of Justice is worthy of the consideration of the Members of this House.

Now, all you fellows who have been inveighing against encroaching on State rights listen to this:

There is another angle which might be worthy of some consideration in connection with this matter. If the legislation were enacted it would seem that the Federal Government would be entering into a field of enforcement which should properly belong to the State governments. It would be a step toward centralization in the Federal Government of police power which has been the subject of much criticism by a number of the States.

Mr. GRAHAM. Will the gentleman yield?

Mr. RAMSEYER. I will yield to the chairman of the committee, although I am not quite through with the letter.

Mr. GRAHAM. I only wanted to call the gentleman's attention to the fact that the bill does not change or alter the jurisdiction of the States but gives a right to prosecute under the interstate commerce power of the Federal Government. Where a man steals in Philadelphia and sells the goods in San Francisco, he can be prosecuted there or wherever he takes it, and the State's jurisdiction still exists.

Mr. RAMSEYER. As the bill is, it makes no distinction between a theft of a nickel and a theft of \$5,000,000.

As I stated before, and I repeat, if the gentlemen on the Judiciary Committee want to get rid of what is known as the "fence," then come before us with a bill properly drawn to reach the fence, and the fence only.

Mr. GRAHAM. How would the gentleman suggest doing that?

Mr. RAMSEYER. Well, I suggest that you gentlemen call upon the Department of Justice to help you out on a new bill. You might also consult the Wickersham crime commission.

Mr. GRAHAM. We do not need it, and we do not propose that any department shall simply rule the committee.

Mr. RAMSEYER. Exactly. I realize that the Judiciary Committee feels it has no need of advice from the Department of Justice or from anybody else.

Mr. LaGUARDIA. Will the gentleman yield?

Mr. RAMSEYER. I will yield now; but I have not finished the letter.

Mr. LaGUARDIA. When the gentleman says we should get the fence only, the gentleman knows that the fence does not move; it is stable; it is in one State, and the only way we can get it is to bring it in under the interstate-commerce provision. That is what the fence is doing now, and that is why the fence can not be reached at this time.

Mr. RAMSEYER. Of course, you have got to bring it in under the interstate-commerce provision; but you do not have to have an act that is all embracing, which includes a boy who goes across the State line into Missouri from my county and steals a watermelon or a peck of apples, the same as a man who steals \$10,000 or \$20,000 worth of goods with the purpose of sending them to a place across a State line to be disposed of.

Now, here is the last paragraph of the letter:

If the legislation were enacted and provision made for the handling of this character of investigations by this bureau, every effort would be made to vigorously enforce the same. In connection with this matter it would be absolutely imperative that the appropriation for the Bureau of Investigation be materially increased in order to provide for the large number of agents which would be necessary to properly enforce this measure.

Respectfully,

J. EDGAR HOOVER, Director.

I submit this as the last-expressed attitude of the Department of Justice. I now yield to the gentleman from Virginia.

Mr. MOORE of Virginia. I would like to say to the gentleman that a while ago he stated the purpose of this bill is practically identical with the purpose of the bill (H. R. 96) introduced in the last Congress. There seems to be some misgiving indicated as to that; and then there was some point made as to who was the author of the bill (H. R. 96) which is criticized in the document which the gentleman has just read. It is interesting to find that the author of that bill is the author of the present bill, the distinguished gentleman from New York [Mr. LaGUARDIA].

Mr. RAMSEYER. Not only the same author but the purpose of the bill is identical.

The bill at that time was disapproved by the Department of Justice, and that department is going to express itself in the very near future to the Judiciary Committee of the Senate.

Now, this is a bill of sweeping and limitless provisions. I think it ought to have further consideration by the committee. If the Judiciary Committee can draw up a bill to limit its provisions to the "fence," and not include everybody and everything in its provisions that happens to cross a State line, I will say now that I would give such a proposition careful consideration and be inclined to support it.

Mr. Speaker, how much time have I left all together?

The SPEAKER pro tempore. The gentleman has 16 minutes remaining.

Mr. GLOVER. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. GLOVER. Is it not true that nearly every State in the Union has a State law that covers transitory offense—taking property from one State to another? Jurisdiction is given to the State where the crime is committed and in the State to which it is carried.

Mr. RAMSEYER. The State laws cover every conceivable case of larceny or of receiving stolen goods and possessing stolen goods for sale.

Mr. GRAHAM. Does the gentleman say that the State has jurisdiction of stolen goods in a transitory matter?

Mr. RAMSEYER. Not the transitory part of it, but of the stolen goods whether such goods are in the State where they were stolen or were brought in from another State.

Mr. PALMER. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. PALMER. I want to ask the gentleman if he does not think the great crime wave which has been going on for the last few years is due to the fact that the Federal courts are so congested by small cases that they are unable to properly transact the business?

Mr. RAMSEYER. There is much merit in the gentleman's observation.

Mr. Speaker, I reserve the balance of my time.

Mr. GRAHAM. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. LaGUARDIA].

Mr. LaGUARDIA. Mr. Speaker and gentlemen, I will not attribute ulterior motives to the gentlemen who oppose this bill such as they have attempted to attribute to those of us who sponsor it. If I were to do that, I could say that the gentlemen who oppose the bill are seeking to protect the interests of every burglar and robber in this country, but I absolve them, of course, of any such intent.

Now, gentlemen, crime is keeping abreast of changed conditions. Criminals have modernized their methods of activity.

This bill is the result of months and months of investigation by the National Crime Commission. It is not the child of any one member of the committee.

What happened? If the gentleman from Iowa will give me his attention, probably he will make a better statement when he takes the floor again. In large commercial and industrial centers we have robbery conducted in a wholesale manner. Loots are looted of goods valued at thousands and thousands of dollars, which are shipped purposely into other States, into small communities, and there repacked and re-marked and from there sold. A county or small community will not go to the expense of sending to different parts of the country for witnesses to identify the goods and will not prosecute these cases for stolen goods received from large centers.

The fence does not move; the fence is stable; that is the reason why we can not reach him as suggested by the gentleman from Iowa.

This bill does not apply to the porch climber who goes in and steals a handful of things from some vacant house. This applies to the burglar, to the fraudulent bankrupt, where bankruptcy is declared and the goods taken and shipped to a distant point in order to get away from prosecution and prevent the recapture of the concealed property.

Mr. RAMSEYER. Will the gentleman yield? The gentleman is making statements not borne out by the facts.

Mr. LA GUARDIA. The gentleman points out that the Department of Justice had no notice. The Department of Justice had notice of hearings before our committee and interposed no objection. The gentleman from Iowa points out that this might involve 50,000 criminals and therefore urges us not to pass the law. That is a new theory in legislation. The gentleman stresses that point. He says if there is \$500,000,000 worth of goods stolen, that might involve 50,000 lawbreakers. Therefore, do not pass the law.

Mr. RAMSEYER. They are now under State law. I object to piling that onto the Federal courts.

Mr. LA GUARDIA. If they are under the State law we would not be here to-day. The right of the State to prosecute is not taken away; in fact, it is specifically preserved, and the State under this bill has the preference. If the State prosecutes, the Federal Government by the provisions of this bill can not prosecute.

Mr. RAMSEYER. But they are under the State law.

Mr. LA GUARDIA. Suppose a burglary is committed in New York of a shipment of furs and they are sent into the State of Iowa. Can the State of Iowa prosecute that fence?

Mr. RAMSEYER. There is no question about it.

Mr. LA GUARDIA. Why do not they do it?

Mr. RAMSEYER. We do.

Mr. DOUGLASS of Massachusetts. They do; certainly.

Mr. LA GUARDIA. In that event the provisions of this bill would not apply. But, as a matter of fact, it is not being done by the States.

Mr. DOUGLASS of Massachusetts. It is the law, and it can be done.

Mr. LA GUARDIA. They are not the goods of the community, and the community is not interested.

Mr. DOUGLASS of Massachusetts. But the gentleman will admit that that is the present law.

Mr. LA GUARDIA. Yes. If you establish that the goods are stolen, and send out and get the witnesses, and bring them over there, of course you can prosecute for having in possession goods known to be stolen. All of this is extremely costly and local police officers and courts seldom exercise diligence in such cases.

Mr. DOUGLASS of Massachusetts. Would you not have to produce the same evidence under the Federal law, under this proposed law?

Mr. LA GUARDIA. The Federal Government can do it. It is not fair to put that burden on a small county. That is exactly the point. This is the result of long investigation, and applies especially in large commercial and industrial centers where these wholesale larcenies are carried on and the goods shipped to another State, purposely to avoid prosecution or to make conviction extremely difficult.

Mr. DOUGLASS of Massachusetts. What has the gentleman to say about the extreme penalties attached to this?

Mr. LA GUARDIA. They are maximum penalties.

Mr. DOUGLASS of Massachusetts. Does the gentleman believe they are justified?

Mr. LA GUARDIA. They are maximum penalties. I have no desire to impose heavy penalties. They are the maximum penalties as in every United States statute. There is no minimum. The minimum can be \$1 and one day. If there were a minimum of say five years, then the gentleman's point would be well taken.

Mr. DOUGLASS of Massachusetts. The gentleman is not in favor of that maximum?

Mr. LA GUARDIA. If there were a minimum fixed of five years, of course I would object to it, but the minimum here is \$1 and one day, and you can not get a smaller minimum than that.

Mr. DICKSTEIN. Mr. Speaker, will the gentleman yield?

Mr. LA GUARDIA. Yes.

Mr. DICKSTEIN. Under this proposed bill it will not matter whether the larceny or the shipment was 50 cents or up—you are giving it no limit at all. Does not the gentleman think he ought to fix it and say if it is over \$1,000 or \$500? It seems to me that you are going into the petty larceny proposition throughout the country.

Mr. LA GUARDIA. There is no intention to do that at all. The gentleman from New York surely will remember the long campaign we had in New York State for a proper "fence" bill, and some of the members who served in the legislature of the State will remember that, too.

Mr. DICKSTEIN. Yes.

Mr. GAVAGAN. Does not the gentleman know that the newspaper propaganda to which he just referred was not directed at all to a "fence" bill, but was directed to the receipt of stolen property?

Mr. LA GUARDIA. That is what a "fence" is.

Mr. GAVAGAN. Was not the gentleman in error in saying that it was a "fence" bill?

Mr. LA GUARDIA. No; a "fence" is a receiver of stolen property.

Mr. GAVAGAN. I disagree with the gentleman.

Mr. BLACK. What is the purpose of section 5, excluding negotiable securities?

Mr. LA GUARDIA. Negotiable securities are just like money, and you can not identify them. There is nothing to put a person on inquiry.

Mr. BLACK. What about stolen bonds being transported? That is one of our principal difficulties.

Mr. LA GUARDIA. If they are negotiable instruments, you can not put one on inquiry, and if they are not negotiable securities one is put on inquiry if he buys under suspicious circumstances. If gentlemen who are opposed to the bill will be so fair as to read the hearings and see the diversified interests who appeared in favor of the bill, I think they would be convinced of its merits. We had shipping interests and commercial associations and industrial associations and insurance companies and organized labor. There was never a bill before our committee that had such universal support as this bill, and it was not drawn up at a moment's notice. It was well thought out for many, many months after the most careful investigation.

Mr. BLACK. Would not the same evidence be required to convict under this section as would generally be required in the State courts to convict a "fence" or receiver?

Mr. LA GUARDIA. Absolutely; of course.

Mr. BLACK. That being so, what is the necessity for this bill?

Mr. LA GUARDIA. Because in communities where there has been no loss suffered there is no incentive to prosecute.

Mr. BLACK. I agree with the gentleman on that.

Mr. LA GUARDIA. That is the sole purpose of it. It is to meet a condition which has been brought about by criminals who understand existing conditions and who take advantage of the quick methods of transportation and can select the spot where they send the loot in order to avoid prosecution and to carry on their criminal activities with impunity.

Mr. MORTON D. HULL. What does the gentleman say about the objection that it would load up the Federal courts with a lot of small stuff?

Mr. LA GUARDIA. The gentleman has heard repeatedly arguments on the floor of this House that we must have some confidence in our prosecuting officers. This is no different from any other penal statute enacted by the Congress.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. GRAHAM. Mr. Speaker, I yield five minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Speaker and Members of the House, I had not intended to take any time on this bill. In fact, I have not given it any consideration since the last Congress, when this subject was brought to our attention by the National Crime Commission. Then we had extensive hearings. I know of no one opposing the bill at that time. Having been before the country for months, having passed the House once and no one opposing, I am surprised at the opposition developed to-day. The real purpose of the bill is to get the "fence," so called.



There is no question but that some minor offenses might be prosecuted under the bill as it is drawn. There is no limit as to value. Possibly some minor amendments might be made to the bill which would improve it. However, it makes me tired to hear people continuously complain because we are too severe upon those who commit crime. I am in favor of a law which will successfully apprehend and punish the criminal. We need speedy and sure justice. I believe that any leeway should be given in favor of the law and of the courts and not in favor of the criminal. [Applause.]

If it is a question of crowded prisons or unrestrained criminals, I am for the crowded prisons.

There is no question but that this country has a real problem before it in regard to this class of larceny cases. Do you realize how easy it is for men in Washington, for instance, to steal fur coats and take them or send them from Washington out to Kansas City or over to New York or out to San Francisco for the purpose of sale by people in a far-away place and at a great discount? Suppose such a robbery is committed here; suppose a large consignment of fur coats is stolen and sent from here to San Francisco and you find out upon investigation where those stolen coats were sold. Under existing law you can prosecute the man who took the coats here in Washington and you can prosecute the man who receives them in California, provided that State has a proper law. You can not compel attendance of witnesses in the State courts if those witnesses are in another State. Those engaged in this business of stealing would be out of a job if you are able to destroy the "fence." We want to get the organization that makes a business of living upon the honest earnings of other folks. This bill will make it possible to get the men back of the robber, who are the fellows who make stealing profitable.

The problem in dealing with bootleggers is to get the fellow higher up. I do not like to see the little fellow punished unduly, the fellow who has a small flask in his pocket, or the fellow who transports a small amount of liquor while the power behind the throne escapes. I think the greater problem is to get the men higher up, the combination, the circle, the ring. This bill deals with everyone connected with the theft, from the thief who in his automobile robs the country store and transports his plunder into a distant State, to the person who sells the stolen property. There was a time when the trains only were used, the auto plays its part to-day.

How are you going to get the witnesses? Suppose you try a man in a State court here for larceny, and the witnesses live in San Francisco. How are you going to get them here? How can you get them before a State court? It can not be done, I will say to the gentleman from Iowa [Mr. RAMSEYER].

Mr. RAMSEYER. Does the gentleman want an answer from me?

Mr. MICHENER. Yes.

Mr. RAMSEYER. How about cases of murder committed in one State and the murderer escapes to another State. State lines interpose some obstacles in the way of the enforcement of State criminal laws, but that is no reason for abolishing State lines. The chief objection I have to this bill is that its provisions are not limited to the fence.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. GRAHAM. Mr. Speaker, I yield to the gentleman five minutes more.

Mr. MICHENER. The purpose here is to get the man who ships and disposes of the property. The man who steals it would not steal to any extent if he did not have some way of disposing of the stolen property. The fence is the organization that deals in and disposes of the stolen property which this organized gang of criminals throughout the land steals.

Mr. DICKSTEIN. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. Yes.

Mr. DICKSTEIN. I am much interested in the gentleman's proposition. Does not the gentleman think this bill should be amended so as to provide that the amount involved should be exceeding \$2,000? Otherwise you are going to glut the courts.

Mr. MICHENER. This is not my bill. It is a bill that came to my subcommittee in a previous Congress, and full hearings were had upon it before it was reported out. Later the bill passed the House, I think unanimously.

Mr. BLACK. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. Yes.

Mr. BLACK. Of course, if the gentleman is not going to amend it, you can prosecute under this act a shopgirl who buys a cheap coat out in Kansas. If she bought the coat at a bargain it would be a suspicious circumstance. Everybody who buys goods at an unusually low price is put on notice.

Mr. MICHENER. I will say that when the bill was first taken up in committee I was opposed to it, but on going into it I

found that the benefits from the enactment of the law far outweighed any objections that might be raised against the bill. Of course, no one wants to add to the congestion of the Federal courts at this time unless that is necessary for better law enforcement. It is conceivable that under this bill the girl who stole a stickpin in New York and crossed the line into New Jersey might be prosecuted under this law. This is a possibility and entirely improbable. All discretion can not be taken away from prosecutors and courts. The big thing we are aiming at is to break up this organized branch of crime, and some fanciful application of the law should not cause us to abandon its helpful and necessary features. The offense aimed at here is entirely different than murder, for instance, and in dealing with this subject nationally I do not think it is comparable with dealing with the subject of murder, as suggested by the gentleman from Iowa.

I am not unmindful that objections can be raised to some features of this bill; however, the benefits to be derived far outweigh the technical objections, and for that reason I acceded to what seemed to be for the best interest of this kind of legislation. So far as amendments are concerned, this is not my bill. I have no more interest in this bill than any man on the floor of this House to-day. I know of no reason why it should not be amended to make it better if such amendments are possible.

Mr. ANDRESEN. Will the gentleman yield?

Mr. MICHENER. Yes.

Mr. ANDRESEN. Will this bill reach the small automobile dealer who unfortunately buys a stolen automobile?

Mr. MICHENER. That is under the Dyer Act.

Mr. ANDRESEN. But this bill will also reach a case of that kind?

Mr. MICHENER. This bill will reach any stolen property.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. MICHENER. Yes.

Mr. LAGUARDIA. I intend to offer an amendment which can very easily be inserted, if I can get the permission of the chairman to do so. In that amendment I will provide for anything in excess of \$1,000. I think that will take care of the petty thief who has been described here.

Mr. MICHENER. All I have to say in conclusion is this, that there is a great evil existing in this country to-day, and that this legislation has been thought out by the National Crime Commission, an organization, as you know, made up of men of the highest type, legally and otherwise, and who would not want an unreasonable law placed upon the statute books, but who want to get at a real evil. Our purpose is to get at this evil. If the bill is not right, let us amend it and make it right. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. LAGUARDIA. Will the gentleman from Pennsylvania yield to me for the purpose of offering an amendment?

Mr. GRAHAM. I will yield for the purpose of stating what it is the gentleman proposes to offer, but I will not yield for the purpose of making an amendment. Mr. Speaker, I yield the gentleman one minute.

Mr. LAGUARDIA. Mr. Speaker, for the information of the gentleman from Pennsylvania, in line 1, page 2, after the word "value," I would insert "in excess of \$1,000," and the same amendment in line 13, after the word "value."

Mr. DOWELL. Do I understand the chairman of the committee is yielding time for the purpose of offering an amendment?

Mr. LAGUARDIA. No. He has yielded time for the purpose of being informed as to what the proposed amendment is.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. GRAHAM. Mr. Speaker, I yield the gentleman one additional minute.

Mr. MICHENER. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. MICHENER. I want to state to the gentleman that my attention has been called to the fact that in the committee the amount to be involved was considered, and there were many people, especially throughout the Middle West and in the rural communities, where country stores were being broken into and where automobile thieves were stealing merchandise and carrying it away, who objected to fixing a limit.

Mr. LAGUARDIA. I am trying to meet a situation which has developed here on the floor. Will the gentleman from Pennsylvania permit me to offer the amendment at the proper time?

Mr. GRAHAM. I can not yield for that purpose.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

Mr. RAMSEYER. Mr. Speaker, I yield five minutes to the gentleman from Virginia [Mr. MOORE].

Mr. MOORE of Virginia. Mr. Speaker, inasmuch as there is no need for hasty action the bill should be further considered by the committee before the House passes judgment upon it. There is a rather curious situation. In a previous Congress a bill, in substance what this bill is and not materially different in detail, was submitted by another committee to the then Attorney General and received his disapproval. It was also submitted—but that is not so important—to the Bureau of the Budget and received its disapproval. In this Congress what has occurred? What consideration of this bill has been given by the committee? Members of the committee have told me in the last two or three hours that it was not heard, so far as they know, by the committee as at present made up.

Mr. GRAHAM. I wish to say to the gentleman that is not correct.

Mr. MOORE of Virginia. There are gentlemen who told me that.

Mr. GRAHAM. It was considered in executive session, and gentlemen ought not to talk about what occurred in executive session. However, I say this bill was brought up in the committee generally.

Mr. MOORE of Virginia. Of course, I accept any statement that my friend from Pennsylvania makes; but he can not deny that the pending bill has not been referred by his committee to the Department of Justice. There is now a man of great ability in the office of the Attorney General, and it would seem that as to a measure which proposes to enlarge tremendously the jurisdiction of the Federal courts and as a consequence create still more congestion in the Federal courts and congestion in the Federal penitentiaries there should be hesitation in taking any such quick action as is urged here to-day without inviting the opinion of the present Attorney General.

We can not consider this bill from the point of view of New York or a few other large centers that are troubled by the particular evil to which reference has been made. We are obliged to consider it from the point of view of the entire country and take into view all the conditions and circumstances which bear upon a matter of so much importance.

Mr. DICKSTEIN. Will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. DICKSTEIN. Is it not a fact that under present law if a crime of this character is committed, an indictment for a felony can bring back any criminal to the State where the crime has been committed?

Mr. MOORE of Virginia. Of course. That is true with reference to all crimes, but we are asked now to adopt a policy based upon the premise that the States are inefficient, that they are incompetent, that they are too weak to act, and that the Federal courts can alone be relied on.

Congress has recently experimented along this line. A little while ago the Dyer automobile bill became a law. That law penalizes as a Federal crime the theft of an automobile in one State which is transported into another State. How has it operated? It has operated in such manner that on January 25 the author of that bill, Mr. DYER, who is on the floor and, I have no doubt, is prepared to reiterate the statement he made at that time, declared the law is working so unsatisfactorily in several directions that if there is no change in what is occurring his inclination is to attempt its repeal.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

Mr. RAMSEYER. Mr. Speaker, I yield the gentleman one additional minute.

Mr. MOORE of Virginia. I shall add to my remarks some quotations from Mr. DYER's statement showing the number of convictions under that act, and to a very large extent of mere youths, and the heavy punishments which have been imposed, and the injustice—which he believes and I believe from the data he has furnished—has resulted from a piece of legislation which is far less extensive in its scope than the legislation now proposed, but which is similar in character. [Applause.]

I quote from Mr. DYER's statement as follows:

Before we had considered this legislation in the Committee on the Judiciary and in the House a number of complaints had come that there were men who were making a business of stealing automobiles, driving them into other States, turning them over to others who were working with them, and having them sold in the other States; in other words, that it had become quite a situation demanding legislation to cure the evil. The States were not able to prosecute these cases for the reason that they could not get witnesses and other necessary things in the way of evidence in order to prosecute in the State courts.

So this statute was enacted, and when I spoke the other day, Mr. Chairman, of the fact that the courts were sentencing young men of

18, 19, 20, and 21 years of age, many of them, to the Federal prison I said then, and I say now, that in my opinion it is wrong to send such young men to the penitentiary in an ordinary case of this kind. Young men will get hold of a car improperly and illegally, of course, and engage in a joy ride, and the first thing they know they are in some other State, where they are arrested. Then under this Federal act they are brought into the Federal court, and the young men have no defense. The car was stolen or taken illegally and found in another State, and having been transported in interstate commerce, they are guilty.

The district attorneys and the courts have been sending many of these young men to the penitentiary, and I want to call your attention to this letter which I have received from the superintendent of prisons of date January 24:

"After hearing your remarks in the House the other day with reference to convictions under the national automobile theft act I thought you might be interested in the figures which I furnished to the secretary of the National Commission on Law Observance and Enforcement recently.

"Out of the 450 Federal boys in the National Training School here in Washington, nearly 200 are violators of the Dyer Act, with the ages distributed as follows:

"Two boys 12 years of age, 6 boys 13 years of age, 19 boys 14 years of age, 31 boys 15 years of age, 64 boys 16 years of age, 48 boys 17 years of age, 19 boys 18 years of age, 1 boy 19 years of age, and 1 boy 22 years of age.

"I have before me now for parole consideration the cases of four youngsters sent from the middle district of Tennessee to the Missouri Reformatory at Boonville, ages, respectively, 12, 13, 14, and 15 years of age."

Mr. Chairman, what I said then I repeat now. Unless this law is administered with more humane justice in considering these young men and boys, I shall offer a bill to repeal the act entirely, although, in my opinion, it has accomplished much good.

A letter from the Department of Justice as to the working of the law indicates that automobiles recovered under the act since it was enacted into law have amounted to \$16,841,866, and that fines have been assessed against those found guilty amounting to \$469,225, and that men have been sent to the penitentiary to the extent of 18,649 years, a total of some 10,714 convictions.

Mr. GRAHAM. Mr. Speaker, I yield five minutes to the gentleman from Oklahoma [Mr. McKEOWN].

Mr. McKEOWN. Mr. Speaker and gentlemen of the House, there ought not to be this big bugaboo about this proposed bill. At the present time, as called to my attention by my good friend from Missouri [Judge LOZIER], we prosecute by Federal statute the thefts and burglaries committed on freight cars and steamboats. We do that by Federal statute already.

Now, here is what takes place, what we are trying to do. We may not have drawn the bill to meet the ideas of some of you, but we have done the best we could.

Here is what we are trying to stop: There are organized gangs throughout the United States who go into unprotected villages and towns and sack these stores of valuable goods. They have a "fence" at many places and they ship these goods to that "fence" in other places in the United States.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. JOHNSON of Texas. The vice of it is that there is no distinction in this bill whether the property is of large or small value. A man would be guilty of a felony if he sent a pocket handkerchief from one State to another.

Mr. McKEOWN. We will try to correct that, but as far as I am concerned I have gotten so tired of stealing going on in this country that I do not care whether we have a petty limitation or not. [Applause.]

Mr. O'CONNELL of New York. In other words, the gentleman is in favor of any law that will operate to correct the situation.

Mr. McKEOWN. Yes; I want to stop this wholesale stealing and shipping of goods all over the United States. The most vicious class is the fellow who buys goods with no intention of ever paying for them and then ships them to some "fence."

I had an experience out in New Mexico nearly 30 years ago. A fellow owned a store—credit was easy, and he filled up his whole store on 90 days' credit. Then he proceeded to pack the goods, shipped them to New Mexico, and got rid of them before the 90 days was up.

This bill is asked for by many of the most prominent men in the United States. Somebody asked if labor was in favor of it. William Green is in favor of it, because his people are honest people.

Mr. BLOOM. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. BLOOM. Why is it that you exclude negotiable paper?



Mr. McKEOWN. Because we have such regard for the people in the gentleman's State—

Mr. BLOOM. Will the gentleman kindly answer why you exclude negotiable instruments, and I would like an honest answer?

Mr. McKEOWN. Because negotiable instruments should flow in commerce untrammelled and you can not interfere with the flow of negotiable paper.

Mr. LaGUARDIA. It is just like money; you can not identify it.

Mr. McKEOWN. You can not have it tied up with such a statute as this.

Mr. BLOOM. But they are stolen.

Mr. McKEOWN. Yes; but you can not check them up.

The SPEAKER pro tempore. The time of the gentleman from Oklahoma has expired.

Mr. RAMSEYER. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has four minutes.

Mr. RAMSEYER. Mr. Speaker, now, if I may have the attention of the House, when I had the floor before I called attention to the fact that the bill had been illy considered and that the Department of Justice, when asked for its opinion two years ago on an identical bill for the identical purpose, opposed it, for the reasons that were stated in the letter that I read to you. The objections by the Department of Justice to the bill have not been met. Since the debate has started gentlemen who favor the bill have suggested several amendments. The bill is of so sweeping and far-reaching a character that it should be carefully considered not only by the Committee on the Judiciary and by that committee in connection with the Department of Justice but by the committee with the entire membership of the House.

I doubt, even with the debate we have had here, with Members coming and going, that a majority of those present understand the character of the bill. This bill undertakes to confer Federal jurisdiction on everything that is stolen, whether it is a stickpin worth 5 cents or property worth a million dollars, if that property is carried across a State line.

Those who are opposed to this bill in its present form are no more in favor of protecting criminals than those who favor it, and they are just as anxious to punish criminals as any member of the Judiciary Committee. That is not the issue, but one serious issue raised by the Department of Justice is in view of the fact that we in the last 20 years have more and more spread Federal jurisdiction over what the States had jurisdiction over before, and as a consequence our Federal prisons are filled far beyond capacity. It is a question whether at this time we should enact a law here giving the Federal courts jurisdiction over every species of larceny, irrespective of the amount involved. The criminal laws of the States now include every offense mentioned in the bill. If you can work out a sensible bill that can have at least some support from the Department of Justice, to get at what you call the "fence," then bring it back here and we will consider it, but this bill, even with the two or three minor amendments that have been suggested, will not be improved sufficiently to merit the approval of this House.

In the course of a very few days you are going to get the opinion of the Department of Justice through the Senate Judiciary Committee, and while I am not going to anticipate the views of the present Attorney General I have no doubt that his views will be in accord with his distinguished predecessor whose views I have already read here. I think the sensible thing for this House to do, in view of the importance of the legislation, in view of the fact that you are greatly extending jurisdiction of the Federal Government in criminal matters, in view of the fact that Members of the House have not had time to consider it, is, when the time comes, to support a motion to recommit this bill to the Committee on the Judiciary. That will not kill the bill, but will give that committee further opportunity to consider it and will also give the Members of the House further opportunity to study and make up their minds whether they want this kind of legislation on the statute books. [Applause.]

Mr. GRAHAM. Mr. Speaker, I shall take the balance of my time. The argument which the last speaker advanced here would apply to every bill that is reported from a committee and is before the House for action. In other words, when it comes up for discussion you could then claim that the Members want further time to consider it. The purpose of having a bill sent to a committee is that it may be investigated by the committee and reported to the House. Then the House considers it. The opportunity to consider it is presented when the bill is reported out, and there is no occasion in this measure for any different rule of procedure from that which obtains in every other case. This bill is not a peculiar one or a new one in Federal legisla-

tion. The law referred to by a previous speaker covers a similar condition of affairs in interstate commerce with regard to common carriers and applies to any amount of goods stolen, large or small. Therefore we are not presenting to the House something novel. We have had this bill in two Congresses. When the hearings were had the Department of Justice was notified to appear and join in the consideration of the measure. My impression is that we had a communication in the last Congress from the Attorney General, then Mr. Sargent. I am not sure, after conferring with some of my fellow Members, whether that is correct or not. I am inclined to think that it rests with the notification and awaiting some representative of the department to come to us and take part in the hearings and consider what took place there.

Mr. RAMSEYER. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM. Not now. It is no argument to talk here about the multiplication of prisoners for stopping legislation that is desired to prevent crime. [Applause.]

It is no argument to claim that a bill should not pass simply because there will be a multitude of offenders under it, but rather an argument in favor of the bill, an argument for further appropriations, and an argument to provide more prisons. Within a few days you are going to multiply the number of offenders under a certain enforcement law in this community. When you undertake to do that some one will rise and say that you are burdening the Federal courts. That is no argument. Burden the courts? Yes. Increase your courts? Yes. Provide new methods for administering the law? Yes. But do not delay legislation that is absolutely and evidently needed solely upon such unheard-of bases as these which have been advanced against this bill.

Mr. Speaker, at the request of the gentleman from New York [Mr. LaGUARDIA] I am going to offer an amendment to the bill, and I now send it to the Clerk's desk to have it read in my time.

The SPEAKER. Does the gentleman desire it read merely for information or does he offer it?

Mr. GRAHAM. I desire it read first for information.

The SPEAKER. Without objection, the Clerk will read.

There was no objection, and the Clerk read as follows:

Amendment proposed by Mr. GRAHAM: Page 2, line 1, after the word "value," insert "in excess of \$300," and in line 13, after the word "value," insert "in excess of \$300."

Mr. GRAHAM. Mr. Speaker, let me say in conclusion that there is no rule of law or system of practice requiring a committee of this House to take the opinion of a department of the Government, unless that committee feels that it would enable them better to comprehend the subject.

In other words, this Congress is not run by the departments of the Government, and whenever we find that we have facts enough, information enough, to enable us to act intelligently, we do not need to inquire of somebody else what we ought to do in the way of recommendation. The facts were presented to us and were supported by an array of names that is seldom marshaled in support of any subject. Hearings were had. A committee investigated it, and the gentleman from Michigan [Mr. MICHENER] made this report to the House. The committee has done its duty, its full duty, and it now leaves the measure in the hands of the Members of the House. It was our duty, having sufficient facts to show the necessity for such legislation, to present the legislation to the House for its final action. [Applause.]

Mr. Speaker, I now offer the amendment.

The SPEAKER. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM: Page 2, line 1, after the word "value," insert "in excess of \$300," and in line 13, after the word "value," insert "in excess of \$300."

Mr. RAMSEYER. Mr. Speaker, will the gentleman yield for a question?

Mr. GRAHAM. Yes.

Mr. RAMSEYER. The gentleman, of course, knows that the Department of Justice has had a great deal of experience in the prosecution of crimes?

Mr. GRAHAM. Yes. Is this a question or a statement? In the latter case I will not agree. [Laughter.]

Mr. RAMSEYER. It is a question. I read a moment ago a letter from the Attorney General.

Mr. GRAHAM. Well, I have had reports sent to me from the departments from subordinate officials when the head of the department never saw it or expressed a wish about it. Some one has written the gentleman a letter.

Mr. RAMSEYER. Nobody has written me a letter, but I have a copy of a letter here that the Attorney General wrote

to the chairman of the Committee on Interstate and Foreign Commerce. There is no question about that.

Mr. GRAHAM. That was about another bill, was it not?

Mr. RAMSEYER. No. It was about the identical bill. No member of the committee will dispute that it is the identical bill. I want to ask the gentleman a question. The department is opposed to this bill and insists that if it is passed it should have a limit of \$1,000. The gentleman here proposes an amendment to make the limit \$300. If you want to have a limitation, why not make the limit \$1,000, as suggested by the Attorney General?

Mr. GRAHAM. The gentleman has forgotten his question.

Mr. RAMSEYER. Oh, no; I can repeat the question for the gentleman's benefit.

Mr. GRAHAM. Mr. Speaker, I ask for a vote on the amendment.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GRAHAM. Mr. Speaker, I move the previous question on the bill as amended to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. RAMSEYER. Mr. Speaker, I move to recommit the bill.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. RAMSEYER. I am.

The SPEAKER. The Clerk will report the motion of the gentleman from Iowa.

The Clerk read as follows:

Mr. RAMSEYER moves to recommit the bill to the Committee on the Judiciary.

The SPEAKER. The motion of the gentleman from Iowa is to recommit the bill to the Committee on the Judiciary. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the yeas appeared to have it.

Mr. RAMSEYER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Those in favor of recommitting this bill will, when their names are called, answer "yea"; those opposed will answer "nay." The Clerk will call the roll.

The question was taken; and there were—yeas 145, nays 202, not voting 81, as follows:

(Roll No. 8)  
YEAS—145

Allgood	DeRouen	Johnson, Okla.	Ramseyer
Almon	Dominick	Johnson, Tex.	Ramspeck
Andresen	Doughton	Johnston, Mo.	Rankin
Andrew	Douglas, Ariz.	Kading	Reece
Bachmann	Douglass, Mass.	Kahn	Reid, Ill.
Baird	Drane	Kemp	Robinson
Bankhead	Driver	Kerr	Romjue
Bell	Dyer	Kopp	Rutherford
Bowman	Edwards	Lampert	Sanders, Tex.
Box	Ellis	Lankford, Ga.	Sandlin
Brand, Ga.	Eslick	Larsen	Schneider
Briggs	Estep	Lea, Calif.	Short, Mo.
Browning	Evans, Mont.	Lee, Tex.	Simmons
Bushy	Fisher	Lozier	Sloan
Byrns	Fuller	Ludlow	Smith, W. Va.
Campbell, Iowa	Fulmer	McCormack, Mass.	Snow
Candell	Gambrill	McDuffie	Steagall
Cannon	Garner, Tex.	McKeown	Stevenson
Cartwright	Gasque	McSwain	Tarver
Chidblom	Gavagan	Mansfield	Temple
Christgau	Gifford	Mapes	Thurston
Clancy	Glover	Milligan	Vincent, Mich.
Clark, N. C.	Green	Montet	Warren
Cochran, Mo.	Gregory	Moore, Ky.	White
Cole	Griffin	Moore, Va.	Whitehead
Collier	Hale	Morehead	Whitley
Collins	Hall, Miss.	Nelson, Me.	Wigglesworth
Connery	Hammer	Williams, Mo.	Williams, Tex.
Cooper, Tenn.	Hare	Oliver, N. Y.	Wilson
Cox	Hawley	Palmer	Wingo
Cross	Hill, Ala.	Palmisano	Wolverton, W. Va.
Crosser	Hope	Parks	Woodruff
Dallinger	Howard	Patterson	Wright
Davenport	Huddleston	Peavey	Yon
Davis	Hull, William E.	Pratt, Ruth	
Denison	Jeffers	Ragon	
De Priest	Johnson, Nebr.	Rainey, Henry T.	

NAYS—202

Abernethy	Black	Burness	Connolly
Ackerman	Blackburn	Butler	Cooke
Adkins	Bland	Cable	Cooper, Ohio
Allen	Bloom	Carley	Cooper, Wis.
Arentz	Bohn	Carter, Calif.	Corning
Arnold	Brigham	Celler	Coyle
Ayres	Brown	Chalmers	Craddock
Bacharach	Brumm	Christopherson	Cramton
Barbour	Brunner	Clague	Crisp
Beck	Buchanan	Clark, Md.	Crowther
Beers	Buckbee	Clarke, N. Y.	Culkin

Cullen	Hopkins	Manlove	Shreve
Darrow	Houston, Del.	Martin	Simms
Dickstein	Hudson	Mead	Smith, Idaho
Dowell	Hull, Morton D.	Menges	Snell
Dunbar	Hull, Tenn.	Merritt	Sparks
Eaton, Colo.	Hull, Wis.	Michaelson	Speaks
Eaton, N. J.	Irwin	Michener	Sproul, Ill.
Elliott	Jenkins	Miller	Sproul, Kans.
Englebright	Johnson, Ind.	Montague	Stafford
Esterly	Jonas, N. C.	Morgan	Stalker
Fitzgerald	Jones, Tex.	Mouser	Strong, Kans.
Fitzpatrick	Kearns	Murphy	Strong, Pa.
Frear	Kelly	Nelson, Wis.	Summers, Wash.
Free	Kendall, Ky.	Newhall	Swanson
Freeman	Ketcham	Niedringhaus	Swick
French	Kiefner	Nolan	Swing
Garrett	Kieess	Norton	Taber
Gibson	Kincheloe	O'Connell, N. Y.	Thatcher
Goodwin	Kinzer	O'Connell, R. I.	Thompson
Graham	Knutson	O'Connor, Okla.	Tilson
Greenwood	Korell	Oldfield	Tinkham
Guyer	Kurtz	Oliver, Ala.	Treadway
Hadley	Kvale	Parker	Tucker
Hall, Ill.	LaGuardia	Patman	Underhill
Hall, Ind.	Lambertson	Pittenger	Vestal
Hall, N. Dak.	Langley	Porter	Wainwright
Halsey	Lankford, Va.	Prall	Walker
Hancock	Leavitt	Pratt, Harcourt J.	Wason
Hardy	Leech	Pritchard	Watres
Hartley	Leibach	Quayle	Watson
Hastings	Letts	Quin	Welch, Calif.
Haugen	Lindsay	Ransley	Welsh, Pa.
Hess	Linthicum	Rogers	Williamson
Hickey	Luce	Rowbottom	Wolfenden
Hill, Wash.	McClintock, Ohio	Sanders, N. Y.	Wolverton, N. J.
Hoch	McFadden	Schafer, Wis.	Wood
Hoffman	McKeown	Scheiberling	Woodrum
Hogg	McLaughlin	Selvig	Wyant
Holaday	McLeod	Shaffer, Va.	
Hooper	Magrady	Shott, W. Va.	

NOT VOTING—81

Aldrich	Doyle	Lanham	Sirovich
Aswell	Drewry	McClintic, Okla.	Somers, N. Y.
Auf der Heide	Evans, Calif.	McCloskey	Spearing
Bacon	Fenn	McCormick, Ill.	Stedman
Beedy	Fish	McMillan	Stobbs
Bolton	Fort	Maas	Stone
Boylan	Foss	Mooney	Sullivan, N. Y.
Brand, Ohio	Garber, Okla.	Moore, Ohio	Sullivan, Pa.
Britten	Garber, Va.	O'Connor, La.	Summers, Tex.
Burdick	Glynn	O'Connor, N. Y.	Taylor, Colo.
Campbell, Pa.	Golder	Owen	Taylor, Tenn.
Carter, Wyo.	Goldsborough	Perkins	Timberlake
Chase	Hudspeth	Pou	Turpin
Cochran, Pa.	Hughes	Purnell	Underwood
Colton	Igoe	Ramey, Frank M.	Vinson, Ga.
Crall	James	Rayburn	Whittington
Curry	Johnson, Ill.	Reed, N. Y.	Yates
Dempsey	Johnson, S. Dak.	Sabath	Zihlman
Dickinson	Johnson, Wash.	Sears	
Doutrich	Kendall, Pa.	Seger	
Doxey	Kunz	Sinclair	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Aswell (for) with Mr. Reed of New York (against).  
Mr. O'Connor of Louisiana (for) with Mr. Frank M. Ramey (against).  
Mr. Spearing (for) with Mr. Fenn (against).  
Mr. Pou (for) with Mr. Moore of Ohio (against).

Until further notice:

Mr. Garber of Oklahoma with Mr. McClintic of Oklahoma.  
Mr. Bacon with Mr. Drewry.  
Mr. Johnson of South Dakota with Mr. Whittington.  
Mr. Perkins with Mr. Kunz.  
Mr. Dickinson with Mrs. Owen.  
Mr. Turpin with Mr. Summers of Texas.  
Mr. Johnson of Illinois with Mr. Doyle.  
Mr. Seger with Mr. Auf der Heide.  
Mr. Purnell with Mr. Taylor of Colorado.  
Mr. Burdick with Mr. Mooney.  
Mrs. McCormick of Illinois with Mr. Sabath.  
Mr. Evans of California with Mr. Hudspeth.  
Mr. Yates with Mr. Stedman.  
Mr. Sullivan of Pennsylvania with Mr. Boylan.  
Mr. Johnson of Washington with Mr. Sullivan of New York.  
Mr. Campbell of Pennsylvania with Mr. McMillan.  
Mr. Crall with Mr. Igoe.  
Mr. Hughes with Mr. Doxey.  
Mr. Garber of Virginia with Mr. Somers of New York.  
Mr. Kendall of Pennsylvania with Mr. Underwood.  
Mr. Chase with Mr. Lanham.  
Mr. Cochran of Pennsylvania with Mr. Vinson of Georgia.  
Mr. Fort with Mr. McCloskey.  
Mr. Golder with Mr. Sirovich.  
Mr. Curry with Mr. Rayburn.  
Mr. Zihlman with Mr. O'Connor of New York.  
Mr. Britten with Mr. Goldsborough.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

TO PERMIT THE UNITED STATES TO BE MADE A PARTY DEFENDANT IN CERTAIN CASES

Mr. GRAHAM. Mr. Speaker, I call up H. R. 980, a bill to permit the United States to be made a party defendant in certain cases.



The SPEAKER. The gentleman from Pennsylvania calls up a bill which the Clerk will report.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That whenever, under any law of the United States, a lien shall be created and made a matter of record in pursuance of the provisions of section 3186 of the Revised Statutes of the United States (title 26, sec. 115, U. S. C.), or otherwise, upon or against any property, real or personal, against which any prior lien or encumbrance shall exist in favor of any person, firm, or corporation, and the person, firm, or corporation holding such prior lien or encumbrance shall desire to foreclose the same, or to proceed to a judicial sale thereon, the United States may be made a party defendant to any suit or proceeding which may be removed to any United States district court under the provisions of sections 4 and 5 of this act by the holder of such prior lien or encumbrance for the purpose of foreclosure or sale: *Provided, however,* That the United States shall not be made a party to any suit or proceeding in any court of any State until after removal of the same to the United States district court as hereinafter provided.

SEC. 2. That in all suits or proceedings which may be removed under this act the process of the court shall be served upon the United States district attorney for the district in which the same shall be pending.

SEC. 3. That no judgment for costs shall be rendered against the United States in any suit or proceeding which may be removed under the provisions of this act, nor shall the United States be or become liable for the payment of the costs of any such suit or proceeding or any part thereof.

SEC. 4. Whenever the prior lien or encumbrance referred to in section 1 of this act shall have been proceeded upon in a State court, and it shall appear that there is filed of record a lien in favor of the United States, entered after the creation of said lien or encumbrance, it shall be lawful for the said plaintiff or plaintiffs before or after the entry of a judgment or decree in such suit or proceeding to have the said suit or proceeding, including said judgment or decree, if any, transferred from the said State court to the United States district court for the district where the property subject to the lien shall be situated; and the procedure for such removal shall be the same as that now required for such transfer in other cases where the United States district court has jurisdiction. After removal of the said suit or proceeding to the United States district court, it shall be lawful for the said court, on petition of the plaintiff or plaintiffs, setting forth the fact of such removal, and the grounds for the same, to enter an order expressly authorizing the addition of the United States as a party defendant therein, and providing for the issuance and service upon the United States of such writ, order, or other process appropriate for making the United States a party and proceeding to a hearing upon the question of the priority of the lien of the plaintiff or plaintiffs over the lien held by the United States, and also providing within what time an appearance and answer shall be filed by the United States after such service. In case a judgment or decree had already been entered in said suit or proceeding in the said State court, the said order so entered by the United States district court, after such removal, shall expressly authorize such judgment or decree to be opened for the sole purpose of permitting the United States to be made a party, and the said order shall also provide for service of process on the United States and for appearance and answer by it as aforesaid. Excepting for the right of the United States to appear and answer therein, and excepting as the United States district court may limit the operation of said judgment as against the rights of the United States, the judgment or decree so opened shall remain in full force and effect as of the date of its original entry in the State court. After the filing of an answer by the United States, the United States district court shall proceed to a finding as to whether or not a lien of the United States exists in fact upon or against the property, real or personal, covered by the foreclosure proceedings in the State court and in what amount and whether or not such lien is subordinate to the lien of the plaintiff or plaintiffs in such suit and after the ascertainment of these facts and the status of the lien, if any, as to priority shall forthwith remand the case to the State court from whence it was transferred so that the State court may proceed to execution and sale, subject, however, to such order as may be entered by the United States district court limiting the judgment in the suit or proceeding in the State court as against the rights, if any, of the United States.

SEC. 5. Whenever the prior lien or encumbrance mentioned in section 1 of this act arises solely as a result of a judgment or decree of a State court, which is not entered by way of foreclosure in a suit on a preexisting lien, and the only proceeding necessary to enforce the lien of such judgment or decree is the regular execution process provided for by the laws of the said State, such judgment or decree may be removed to the said district court of the United States by proceedings as provided in section 4 of this act. After such removal, a rule to show cause shall, upon petition of the plaintiff or plaintiffs therein, be granted by the said district court, returnable at such time as the court may direct, requiring the United States to show cause why such execution should not issue and a sale be made thereunder according to law. The said rule shall be served upon the United States district attorney of the district aforesaid, and after a hearing upon such rule the said

court, being satisfied with the priority of the lien of said judgment or decree over the lien held by the United States, shall enter a final order so finding, making such rule absolute, and ordering the suit or proceeding entered therein forthwith to be remanded to the State court for execution process to issue for the sale of the property covered by the said liens, with like effect as hereinafter provided in section 6 of this act.

SEC. 6. After the entry of a final order by the United States district court in any suit or proceeding transferred thereto from a State court under this act in which the United States has been made a party under the provisions of this act, pursuant to a finding in the court that a lien exists in favor of the United States and that such lien is subordinate to the lien of the plaintiff or plaintiffs in such suit, the effect of any sale which may thereafter be made, by writ of execution or otherwise, in the said State court subject to the terms of the said order of the United States district court, shall be the same, as to the discharge from the property sold of liens and encumbrances, and otherwise howsoever, as shall be provided by the law of the State in which the said property is situated, in connection with such sales in the courts of that State; and the lien of the United States upon such property shall be subject to discharge from said property by such sale, in the same manner as may be provided by such State law as to other junior liens, and shall be relegated to the fund produced by such sale.

Mr. GRAHAM. Mr. Speaker, I offer a perfecting amendment, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM: Page 1, line 9, after the word "any," insert the words "State or municipal subdivision thereof or of any."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GRAHAM. Mr. Speaker, I present another amendment, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM: Page 6, following section 6, add the following new sections:

"SEC. 7. Subsection (c) of section 3186 of the Revised Statutes, as amended, is amended by striking out the period at the end of paragraph (3) and inserting a semicolon in lieu thereof, and by adding the following new paragraph:

"(4) May issue a certificate of release of the lien if the Commissioner of Internal Revenue determines that such lien is of no value."

"SEC. 8. If any person has a lien upon any property which has been duly filed of record in the jurisdiction in which the property is located, and a junior lien (other than a lien arising out of a neglect or failure to pay any tax) in favor of the United States attaches to such property, such person may make a written request to the officer of the United States charged with the administration of the laws in respect of which the lien of the United States arises, to have the same extinguished. If, after appropriate investigation, it appears to such officer that the proceeds from the sale of the property would be insufficient to satisfy, in whole or in part, the lien of the United States, or that the lien of the United States has been satisfied or by reason of lapse of time has become unenforceable, such officer shall so report to the Attorney General, who thereupon may in his discretion issue a certificate of release. Such certificate may be recorded and shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

"SEC. 9. That the United States hereby consents to be made a party to any suit or proceeding brought in a Territorial court or the Supreme Court of the District of Columbia instituted by any person, firm, or corporation holding a prior lien to a lien of the United States which is subject to the provisions of this act whenever the property covered by such lien is within the jurisdiction of the Territorial court or the Supreme Court of the District of Columbia. In all such suits or proceedings the process of the court shall be served upon the United States attorney for the Territory or District within which suit may be or may have been instituted, whose duty it shall be to appear and defend the interest of the United States: *Provided,* That no judgment for costs shall be rendered against the United States in any suit or proceeding which may be instituted under the provisions of this section, nor shall the United States be liable for the payment of the costs or any part thereof of any such suit or proceeding. After the entry of a final order by the Territorial court or the Supreme Court of the District of Columbia pursuant to a finding that a lien exists in favor of the United States and that such lien is subordinate to the lien of the plaintiff or plaintiffs in such suit, the effect of any sale which may thereafter be made by writ of execution or otherwise in the court of the Territory or of the District of Columbia shall be the same as to the discharge from the property sold of liens and encumbrances and otherwise howsoever as shall be provided by the law of the Territory or

District in which the said property is situated; and the lien of the United States upon such property shall be subject to discharge from said property by such sale in the same manner as may be provided by law as to other junior liens in the Territory or District wherein the property is situated and shall be relegated to the fund produced by such sale.

"SEC. 10. This act shall not apply to any lien of the United States upon any vessel or vehicle if a violation of the customs, prohibition, narcotic drug, or immigration laws is involved, nor to any maritime or preferred vessel mortgage lien.

"SEC. 11. The provisions of section 1127 of the revenue act of 1926, section 3207 of the Revised Statutes, with reference to the assessment of tax liens, shall remain in full force and effect, but any State or municipal subdivision thereof, or any person, firm, or corporation holding a prior lien or encumbrance to a lien filed for the refusal or neglect to pay any tax of the United States, may elect to proceed for the removal of said lien under the provisions of this act."

Mr. STAFFORD. Mr. Speaker, I assume the gentleman from Pennsylvania [Mr. GRAHAM] is going to explain the amendment that has just been presented for consideration.

Mr. GRAHAM. Mr. Speaker, I will take enough time to make an explanatory presentation of this bill and the amendments, so that the House may understand what is really before it. I will take at least 15 minutes.

I ask for the earnest attention of the House to the explanatory remarks I am about to make concerning the bill, H. R. 980, the perfecting amendment which I have offered, and then call your attention to a bill which the chairman of the Ways and Means Committee [Mr. HAWLEY] has introduced in the House intending it to be a substitute for the bill reported by our committee.

Some of the Members of the House may recall that about a week or 10 days ago this bill was before the House and Mr. HAWLEY, the chairman of the Ways and Means Committee, arose and interrogated me as to whether or not the bill had been submitted to the Treasury Department. I told the gentleman I could not of my own knowledge say whether it had been or not, but I could say we had applied to the Department of Justice, and I had no doubt they had consulted whatever department was affected by the bill. The gentleman asked that the matter be postponed until he could make some further investigation. I agreed and the matter was then withdrawn from the consideration of the House at that point.

Afterwards the gentleman conferred with the Department of the Treasury. I kept away and did not interfere, waiting to hear what report would come from that department. Later I received notice that a certain gentleman connected with that department was trying to frame a bill as a substitute for the legislation which this committee had considered and reported favorably, and which this House in a previous Congress had acted upon and passed, and when the Senate also acted upon the bill we went to conference on the disagreement between the two Houses. The bill failed in that Congress by reason of what is called a pocket veto. I do not know how to characterize the proposition except to say that as a Member of the House he has a right to consider any bill and suggest any amendment he chooses.

I now ask your attention to the bill H. R. 980. Without attempting, because it would take too much time, to read the bill, I can tell you in a few words exactly what its provisions mean.

A demand arose for some unfettering of real estate to relieve it from the liens of the Government, which had become oppressive and unendurable. Title companies, building associations, and others besought the passage of some measure that would give relief.

This subject has been under consideration for three or four years. After conference with committees representing these interests and after conference with one of the subordinates of the Department of Justice who took the matter up, we agreed upon a bill. That bill is embodied in H. R. 980.

It is simply a provision by which whenever a mortgagee, for instance, holding a mortgage upon real estate, finds that a lien to the Government has been filed, a subordinate lien remember—because if it is a prior lien we can not do anything with that—the owner of that mortgage may go into the State court and foreclose his mortgage, but this would do him no good unless he could get the United States made a party to the proceeding in some way so that the lien would be relieved on the part of the Government.

We have devised the method that the mortgagee can petition the United States court to take cognizance of the matter of the existence of a subordinate lien, and that court will take up the question and consider whether or not the lien has any existence, what its amount is, and certify these facts to the State court. The State court then proceeds with the foreclosure and

when a sale takes place that lien is wiped out to the extent that it becomes, instead of a lien against the real estate, a lien upon the fund which the sale produces.

It seemed to me this was a perfectly reasonable method of procedure.

Mr. BLOOM. Will the gentleman yield there?

Mr. GRAHAM. I will, for a moment.

Mr. BLOOM. Would not that wipe out the subordinate lien against the property, if the property did not realize a sufficient amount of money to protect the Government?

Mr. GRAHAM. Certainly; and it ought to be wiped out. If there is nothing there to pay it, why should the real estate be fettered continually and forever?

Mr. BLOOM. Why should not the United States be protected in that event?

Mr. GRAHAM. It is not affected, except in so far as it finds out the status of the lien, refers it back to the State court, with its suggestion as to the quality of the lien or its priority.

Mr. BLOOM. As a business proposition, is not that a matter for the Treasury Department instead of a matter for the Department of Justice?

Mr. GRAHAM. Oh, no. The Treasury Department says it is a matter of procedure. Mr. Alvord, who acted for them and who had several interviews with me, agreed that this affected the remedy and did not affect the revenue. It simply provides a method by which liens can be discharged and does not affect the revenue, and I have a letter from the Treasury Department saying that the proposed bill does not affect the revenue of the Treasury one penny. This answers that proposition.

Now, in order to carry out some suggestions that were made by Mr. Alvord, and which Mr. HAWLEY has engrafted in his bill, to-day I submitted the suggestions to the Judiciary Committee and have their approval that as chairman of the committee, I may present them to the House, which I have done.

There was some question raised by Mr. Alvord as to whether or not this proceeding of ours would destroy or repeal section 3207. Personally, I said it would not. Our committee felt that it would not, when it was discussed, because this being a general and that a special act of legislation, the general never repeals the special, unless it is absolutely antagonistic to it or has words of repeal in it. In order to remove all question about it I put in an amendment that the bill shall not effect the repeal of that section in any way. That removes any doubt, and that is satisfactory to the Treasury and the lawyers and the committee.

Now, the Treasury wanted some freedom in the matter of removing liens voluntarily, and we have introduced two amendments, one of which relates to tax liens, that the collector of internal revenue has charge of, and whenever he finds that a lien on the record is valueless and worthless he may so decide and give a certificate removing the lien.

As to all other liens we have also an amendment, which is the same as Mr. Alvord advocated and the same as that Mr. HAWLEY advocated—that as to all other liens, when the department out of which they originated examines into the matter and makes a report to the Attorney General, the Attorney General may issue a certificate releasing these worthless claims. That is only to facilitate the administration regarding tax accounts. That was not in my original bill, but it is good legislation and seems to me worthy to be considered, and therefore we adopted the second amendment.

The practical difference between the bill which we have introduced and the committee has reported time and time again and that which my friend [Mr. HAWLEY] is going to advocate is this: Our bill is simply a certification of the question to the United States courts and, when considered by the court, that court referring back its decision, which the State court will carry out.

Mr. HAWLEY's bill provides for the originating of the suit in the United States district court, but he has the most cumbersome and impracticable method of doing it, and the person who wants the relief has no right to complain.

I want to enter a protest against a spirit that seems to prevail in so many places that when a man goes into the Government service he ceases to represent the people and becomes the partisan of the place in which he is; he can not see the other side of the question. He only sees one side; and the faithful man who gets the bill up, as in this case for my distinguished friend, only sees one side. By the terms of that bill he must make the request of the Attorney General, wait three months, and if the Attorney General does not grant relief, he may file a bill in equity.

Why should he be put in that position? Why should not the man who is seeking justice and right have the privilege of starting his own proceeding and not be put in the position



of asking some department head or clerk whether or not he has the right to proceed?

That is substantially the only difference between us, and I hope the House will pass the bill as we have reported it, with the amendments.

Now, in closing, I want to call your attention to a letter which was not shown to me by my distinguished friend on the other side, but I had to get it after drawing it out of the gentleman who represents the Treasury. This is the letter from the Department of the Treasury:

JANUARY 22, 1930.

DEAR CONGRESSMAN HAWLEY: In response to your oral request of yesterday, I am glad to submit the views of the Treasury with respect to the bill (H. R. 980) to permit the United States to be made a party defendant in certain cases, recently reported by the Committee on the Judiciary of the House of Representatives.

Time does not permit a detailed analysis of the provisions of the bill. Briefly, it provides for the discharge of Federal tax liens through the prescribed judicial procedure.

It would seem from the reports of the committee, during the present and prior Congresses, that its attention had not been called to the provisions of section 3207 (b) of the Revised Statutes.

I say attention has been directed to that and we did not think it worth while to put in any proviso, because, as lawyers, we agreed that our bill did not modify or change section 3207. But to remove doubt we have inserted an amendment, which has been adopted.

The letter continues:

Although the reports state that there is no method under existing law by which a junior Federal lien may be removed, it is believed that the above section, as construed and applied by the Treasury and the courts, affords a direct and reasonably expeditious procedure. The section is of constant use and persons within and without the department have become familiar with it. It would seem very desirable that the pending bill, if enacted, provide specifically that it does not affect in any way the provisions of this section.

I have said I have provided specifically that it shall not touch that, but that section applies only to tax liens, and it took the customary bill, the very bill that originates in the departments, six months before action could be had. It was formerly held in the department that six months had to expire before the answer could be given, but one of the courts has decided that it may be any time within the six months. A man wanting relief has a right to proceed at once and try to get an answer as quickly as possible and should not be compelled to wait.

No doubt there are some difficulties in the removal of Federal tax liens which could be avoided. For example, the cost and delay of judicial procedure could be avoided if section 3186 of the Revised Statutes, as amended by the revenue act of 1928, were further amended to permit an administrative discharge of the Federal lien in any case if, by reason of duly recorded and valid prior liens, the Federal lien is determined to be of no value. This section now authorizes an administrative discharge of Federal tax liens under certain other circumstances.

That we have covered in the amendments we have added. They provide for the administrative discharge of these things.

The Treasury does not believe that the revenues of the Government will be jeopardized in the slightest by the pending bill, or by the Senate bill which was agreed to in conference last Congress but which failed to receive the approval of the President. Quite to the contrary, the Treasury will welcome the enactment of any provision which will afford taxpayers a simple, expeditious, and inexpensive procedure, whether judicial or administrative, for the removal of Federal tax liens. However, it would seem unfortunate indeed if the existing procedure were made more complicated or if any legislation were enacted which might conceivably raise a question as to whether or not the existing procedure remained unaffected.

The Treasury will be glad, of course, to render all possible assistance in connection with any proposed legislation.

Very truly yours,

A. W. MELLON,  
Secretary of the Treasury.

Hon. WILLIS C. HAWLEY,  
House of Representatives.

Mr. BLOOM. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. BLOOM. How does the United States protect itself in a second lien against any property in case this bill should pass.

Mr. GRAHAM. This bill has been amended so that it does not apply to matters in admiralty. It does not apply to seizures

of vessels or things in the prosecution of the enforcement law. They are excepted from its provisions. This relates only to real estate.

Mr. BLOOM. How could the United States protect itself in a subordinate lien against any property if it should go to a foreclosure? If it goes to a foreclosure, if I may be permitted to add to my question, the United States, to protect its second lien, would have to get an appropriation. It could not go in and buy and protect its first mortgage.

Mr. GRAHAM. We would have nothing to do with the detail of how the United States would protect itself. The United States has its status the same as any other second-lien creditor, citizen, or corporation. Why should it be put in a different position?

Mr. BLOOM. The United States is not in the same position, because it can not go in and buy the first lien to protect its second lien. It has not the money or the right to do it.

Mr. GRAHAM. It ought not to do it, either.

Mr. BLOOM. It can not do it.

Mr. GRAHAM. And it will not do it.

Mr. HAWLEY. Mr. Speaker, will the gentleman yield some time to me?

Mr. GRAHAM. Certainly. Mr. Speaker, I yield 15 minutes to the gentleman from Oregon [Mr. HAWLEY].

Mr. HAWLEY. Mr. Speaker, when this bill came up originally on the Consent Calendar I asked that it go over. I believe the subject matter of the bill requires legislation. The question at that time before us was whether the bill provided the most expeditious and the best method of releasing property of Government liens arising out of taxes, and so forth. Legislation for the collection of revenue and the enforcement of the revenue laws has heretofore originated in the Committee on Ways and Means, and I have had something to do with it.

I asked the gentleman from Pennsylvania [Mr. GRAHAM] if the Treasury Department, which administers the revenue act, had been consulted in regard to the bill, and if it had been asked to report upon it. I did that with the purpose in view of ascertaining whether that department had examined the bill and approved it as the most direct, expeditious, and least expensive method of solving the problem. There was also the question whether being an isolated piece of legislation it might not affect some other legislation inadvertently. The gentleman from Pennsylvania [Mr. GRAHAM] replied that the Treasury Department had not been consulted and that it had not reported on the bill.

Of course, the departments do not dominate legislation, but they administer all laws that Congress passes, and consequently acquire first hand all the information that there is upon the subject in the enforcement of the law. Departments, agencies created by Congress for the purpose of carrying into effect the legislation we enact, and their experience are invaluable when any modification of legislation is considered. My attention was further directed to this fact, that in a preceding Congress this House passed one bill on this subject, that the Senate amended it and made it an entirely different bill, and that the conferees on the part of the House agreed to the bill as amended by the Senate, and the House passed the bill in that form. So, in one session of Congress, within a few days, as I recall, the House took two diametrically opposed positions on this legislation. It appeared to me that some further inquiry should be made, that some solution ought to be found that would accomplish the purpose, without so much circumlocution, as, in my judgment, was provided in the bill H. R. 980, as reported by the committee. This matter also was in mind.

In the course of the administration of a law levying taxes on millions of people and hundreds of thousands of corporations, tax liens become worthless. They become worthless in counties and States. Under existing law it requires a suit to dispose even of a worthless tax lien. Why resort to the machinery of the courts to dismiss a lien that is known certainly to be of no value? I asked the Department of Justice to send a representative, and the Assistant Attorney General came as a representative sent from the Department of the Treasury, and I also asked the legislative counsel of the House to confer with us. We went over the matter and as a result of that conference we agreed that whenever a tax lien was known to be worthless there should be a way administratively to dismiss that lien; that the Government dismiss all worthless liens, disencumber property of such claims, and let the business of the country proceed in due order. I asked what proportions of the liens are of such character. The Treasury could not state exactly, but I think it was agreed that more than half of them could be disposed of administratively.

Mr. CRISP. Mr. Speaker, will the gentleman yield?

Mr. HAWLEY. Certainly.

Mr. CRISP. Why are they regarded as worthless? Is the property not regarded in the market as worth the first lien?

Mr. HAWLEY. A lien is to be considered as worthless if the property is clearly worth less than the amount of the lien or liens which have priority over the lien of the Government, and the Government could not collect anything on such lien. A great many cases of that kind have already arisen, as, for instance, in Florida. The Committee on the Judiciary have added to the pending bill an amendment for this purpose, in accordance with my suggestion, and contained in House bill 9503, which I introduced yesterday, in order that it might be in printed form for the convenience of the Members.

There was another question, whether section 3207 was not also affected by the legislation. The committee has adopted language that will prevent any adverse construction of section 3207.

Mr. BOWMAN. What is section 3207?

Mr. HAWLEY. Section 3207 relates to the enforcement of liens for the collection of taxes. Subsection (b) provides the method by which a person having a lien on real estate on which a tax lien by the United States is imposed can proceed to action. One provision is that where the commissioner does not file a bill in chancery within six months after request by such person the latter may proceed with his suit. But this has not resulted in delay. The practice of the Treasury is immediately to make a disclaimer, and the person can then proceed to his remedy. Because of the importance of this section, I print it here:

UNITED STATES CODE, TITLE 26

136. Chancery proceedings against real estate: (a) In any case where there has been a refusal or neglect to pay any tax and it has become necessary to seize and sell real estate to satisfy the same the Commissioner of Internal Revenue may direct a bill in chancery to be filed in a district court of the United States to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the real estate sought to be subjected as aforesaid shall be made parties to such proceedings and be brought into court, as provided in other suits in chancery therein. And the said court shall at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the real estate in question, and in all cases where a claim or interest of the United States therein is established shall decree a sale of such real estate by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

(b) Any person having a lien upon or any interest in such real estate, notice of which has been duly filed of record in the jurisdiction in which the real estate is located, prior to the filing of notice of the lien of the United States, as provided by section 115 of this title, or any person purchasing the real estate at a sale to satisfy such prior lien or interest, may make written request to the Commissioner of Internal Revenue to direct the filing of a bill in chancery as provided in subdivision (a), and if the commissioner fails to direct the filing of such bill within six months after receipt of such written request such person or purchaser may, after giving notice to the commissioner, file a petition in the district court of the United States for the district in which the real estate is located praying leave to file a bill for a final determination of all claims to or liens upon the real estate in question. After a full hearing in open court the district court may in its discretion enter an order granting leave to file such bill, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties. Service on the United States shall be had in the manner provided by sections 762 and 763 of title 28. Upon the filing of such bill the district court shall proceed to adjudicate the matters involved therein in the same manner as in the case of bills filed under subdivision (a) of this section. For the purpose of such adjudication the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid, and all costs of the proceedings on the petition and the bill shall be borne by the person filing the bill. (R. S., par. 3207; June 2, 1924, 4.01 p. m., c. 234, par. 1030, 43 Stat. 350.)

I wish you to understand that the committee bill has adopted all of the essential features of the bill which I introduced, except one. The representatives of the Department of Justice, the Treasury Department, and the legislative counsel agree upon H. R. 9503, and, in order to simplify the procedure, they provided that the suit should be initiated in a district court. Under the committee bill, as originally proposed, a suit would be commenced in a State court and then transferred to the

United States court and then transferred back from the United States court to a State court, which seems to me to be an unnecessarily expensive and dilatory procedure. In H. R. 9503 a suit is initiated in the Federal court and decided and settled there, and the property sold and the parties who are entitled to any funds are paid.

However, the courts are given discretion. If the suit in the Federal court shows that the tax lien of the United States is valueless, it is dismissed from the Federal court, no Federal interest having been found to exist.

Now, unless a very important provision allowing the administrative dismissal of worthless suits, relieving the courts of that burden and relieving the property immediately of that burden, has been included in the bill reported by the Committee on the Judiciary, I would have offered H. R. 9503 in a motion to recommit, but with that and the other amendments in the bill which the gentleman from Pennsylvania [Mr. GRAHAM] has reported, as amended, and with the provision that section 3207 is not adversely affected, I shall not make a motion to recommit.

Business ought to be relieved of the delays of administering property on which there is a Federal tax lien. It will be of great advantage in many sections of the country. It will enable a more ready transfer of property and a speedier realization of values.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield there?

Mr. HAWLEY. Yes.

Mr. CHINDBLOM. The gentleman has introduced the bill H. R. 9503, which has been described in the manner indicated by him as having been prepared in conference with other officers of the Government. As I understand, the amendment of the Committee on the Judiciary embodies practically all the amendments proposed in the bill H. R. 9503, with the exception of the jurisdiction in which the proceedings might be brought.

Mr. HAWLEY. I understand that is so.

Mr. CHINDBLOM. The bill here transfers jurisdiction from the State court to the Federal court, and then transfers jurisdiction from the Federal court back to the State court for final adjudication, while the gentleman's bill, H. R. 9503, provides that all these proceedings should be in the Federal court?

Mr. HAWLEY. Yes.

Mr. BLOOM. Mr. Speaker, will the gentleman yield?

Mr. HAWLEY. Certainly.

Mr. BLOOM. I asked the chairman of the committee [Mr. GRAHAM] a question with reference to the chance of the Government to protect itself in a subordinate lien on a piece of property in a case where it would not be within the power of the Government at any time to protect the subordinate lien. If a person wanted to be dishonest, the Government could not come in and protect its lien at any time without first coming to Congress to get an appropriation to buy and protect the first mortgage in order to protect the second mortgage.

Mr. HAWLEY. My understanding is that if the Government has a lien and there is a prior incumbrance on the property—

Mr. BLOOM. If the Government has a subordinate lien—

Mr. HAWLEY. And proceedings are taken to protect the first lien, the Government's case will be considered, and if the property is worth sufficient not only to pay the prior lien or liens but also to pay the Government lien, in whole or in part, the Government would receive payment in whole or in part.

Mr. BLOOM. If the holder of the first lien wanted to be dishonest, he would bid less than what the first lien amounts to, get the property at a low figure, and the Government would get nothing.

Mr. HAWLEY. The Government has no right to bid in the property.

Mr. BURTNESS. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. BURTNESS. So that some of us may understand a little better the relief that is suggested simply as an administrative act and the cases to which it would apply. I understand, for instance, it would apply to a case of this sort: In many States foreclosure by advertisement is permitted, with the right of redemption. Assume that a prior lien is foreclosed, the Government has a junior lien, the time for redemption expires and the purchaser at the foreclosure sale of the prior lien gets title through the foreclosure proceedings under State laws. Presumably in a case of that sort the enforceability of the Federal lien as a practical proposition has been wiped out, but it is still a cloud on the title. Now, in that sort of a case, could the administrative officers give relief under the amendment that is proposed without going into court in any way?



Mr. HAWLEY. If at any time they find as a matter of fact that the Government lien is valueless they are authorized to release that lien by the pending amendment.

Mr. BURNES. And it may become valueless for several reasons, for instance, depreciation in the value of the property, the amount of prior liens foreclosed in legal proceedings, or anything else.

Mr. GRAHAM. The foreclosure the gentleman speaks of could not possibly discharge the Government's lien.

Mr. BURNES. I understand it would not be discharged, but, of course, the holder of the property would have been subrogated to the rights acquired under the foreclosure of the prior lien, I take it.

Mr. HAWLEY. In conclusion, since to H. R. 980, the pending bill, there have been included by way of amendments all the substantial provisions of H. R. 9503, the bill I have introduced, except one, I shall support the measure.

I am including in these remarks a copy of H. R. 9503:

A bill to amend section 3207 of the Revised Statutes, as amended

*Be it enacted, etc.,* That section 3207 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3207. (a) That in any case in which there is a lien in favor of the United States upon any property, the Attorney General (or the Commissioner of Internal Revenue, in the case of a lien arising out of a neglect or failure to pay any tax) may direct a bill in equity to be filed in a district court of the United States to enforce the lien of the United States. All persons having liens upon or claiming any interest in such property shall be made parties to such proceedings and be brought into court as provided in other suits in equity therein. The court shall, unless it otherwise orders, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon such property, and may decree a sale of such property and a distribution of the proceeds or enter such other decree as the court may deem appropriate.

"(b) Any person who has or claims a lien upon or any interest in any such property may make written request to the Attorney General (or to the Commissioner of Internal Revenue, as the case may be) to direct the filing of a bill in equity as provided in subsection (a). If the Attorney General (or the Commissioner of Internal Revenue, as the case may be) notifies such person that he will not direct the filing of such bill, or fails to direct the filing of such bill within three months after receipt of such written request, then such person may, after giving notice to the Attorney General (or the Commissioner of Internal Revenue, as the case may be), file a bill in equity in the district court of the United States for the district in which the property is located to enforce his lien or interest. All persons having liens upon or claiming any interest in such property shall be made parties to such proceedings and be brought into court as provided in other suits in equity therein. Service on the United States shall be had in the manner provided by sections 5 and 6 of the act entitled 'An act to provide for the bringing of suits against the Government of the United States,' approved March 3, 1887, as amended. Upon the filing of such bill the district court shall proceed to adjudicate the matters involved therein in the same manner as in the case of bills filed under subsection (a) of this section. For the purpose of such adjudication, the assessment of the tax, or other claim of the United States, in respect of which the lien of the United States arises shall be conclusively presumed to be valid, and all costs of such proceeding shall be borne by the person filing the bill. This subsection shall not apply in any case in which the lien of the United States is senior to all other liens and encumbrances involved in the proceeding.

"(c) As used in this section, the term 'property' means property and rights to property whether real or personal.

"(d) This section shall not apply to any lien of the United States upon any vessel or vehicle if a violation of the customs, prohibition, narcotic drug, or immigration laws is involved, nor to any maritime or preferred mortgage lien."

SEC. 2. Subsection (c) of section 3186 of the Revised Statutes, as amended, is amended by striking out the period at the end of paragraph (3) and inserting a semicolon in lieu thereof, and by adding the following new paragraph:

"(4) May issue a certificate of release of the lien if the Commissioner of Internal Revenue determines that such lien is of no value."

SEC. 3. If any person has a lien upon any property which has been duly filed of record in the jurisdiction in which the property is located, and a junior lien (other than a lien arising out of a neglect or failure to pay any tax) in favor of the United States attaches to such property, such person may make a written request to the officer of the United States charged with the administration of the laws in respect of which the lien of the United States arises, to have the same extinguished. If, after appropriate investigation, it appears to such officer that the proceeds from the sale of the property would be insufficient to satisfy in

whole or in part the lien of the United States, or that the lien of the United States has been satisfied or by reason of lapse of time has become unenforceable, such officer shall so report to the Attorney General who thereupon may in his discretion issue a certificate of release. Such certificate may be recorded and shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

Mr. GRAHAM. Mr. Speaker, I have a few words to add, and then I am going to move the previous question upon the bill. The Hawley bill is cumbersome; the Hawley bill is unfair to the citizen, and puts everything in the hands of the department. It provides that:

Any person who has or claims a lien upon or any interest in any such property may make written request to the Attorney General—

He can not go into court—

or to the Commissioner of Internal Revenue, as the case may be—

That is, whether it is a tax lien or any other lien—

to direct the filing of a bill in equity as provided in subsection (a). If the Attorney General (or the Commissioner of Internal Revenue, as the case may be) notifies such person that he will not direct the filing of such bill, or fails to direct the filing of such bill within three months—

They must wait three months for him to determine whether he is going to file a bill—

after receipt of such written request, then such person may, after giving notice to the Attorney General (or the Commissioner of Internal Revenue, as the case may be), file a bill in equity in the district court of the United States for the district in which the property is located to enforce his lien or interest.

That is the proposition which is submitted in lieu of this simple process if you are foreclosing your mortgage in State courts, and I appeal to every lawyer in this House that the States have almost exclusive jurisdiction in matters of real estate. The State courts have the machinery for administering foreclosures and doing the work that is necessary in handling foreclosures. This Hawley bill would require the establishment of new machinery in the United States courts to carry out the purpose of this act. My friend says our procedure is a costly and expensive procedure. How can it be? It is a simple reference to the judge to ascertain the standing and status of the lien.

Mr. ELLIS. Will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. ELLIS. In the meantime is the jurisdiction of the State court ousted?

Mr. GRAHAM. No. The Federal question is certified to the Federal court, and when the Federal court answers the status of that lien the State court is bound to carry that out in executing its processes.

Mr. LA GUARDIA. Will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. LA GUARDIA. Under the gentleman's proposed amendment there are three ways in which the lien may be discharged; first, on the certificate of the Commissioner of Internal Revenue; second, where another department is involved, by reference to the Attorney General; and third, by reference to the Federal court and have the Federal court adjudicate the matter.

Mr. GRAHAM. Yes. The last thing I desire to call attention to is the remark made by the gentleman from Oregon [Mr. HAWLEY] and by the gentleman from Illinois [Mr. CHINDELOW] in his question to the gentleman from Oregon, that we have simply adopted his bill. Our bill stands just where it stood, with the exception of the one amendment providing that this bill should not change section 3207. When the matter of getting this administrative relief came up between Mr. Alvord and myself I told him I saw no objection to it, but it was not practically related to our bill; nevertheless I would ask the committee to authorize me to introduce just such measures of relief for the department as I thought proper, but it did not affect the question with reference to the United States court and ridding us of a lien. It does not affect that question. As I have stated before, the purpose of this bill is to give greater relief in the handling of this lien question.

Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### ENROLLED BILLS SIGNED

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 6621. An act to extend the times for commencing and completing the construction of a bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Ala.;

H. R. 7642. An act to extend the time for completing the construction of the approaches of the municipal bridge across the Mississippi River at St. Louis, Mo.; and

H. J. Res. 170. Joint resolution providing for a commission to study and review the policies of the United States in Haiti.

The SPEAKER also announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 2086. An act granting the consent of Congress to the Wabash Railway Co. to construct, maintain, and operate a railroad bridge across the Missouri River at or near St. Charles, Mo.; and

S. J. Res. 98. Joint resolution to grant authority for the erection of a permanent building at the headquarters of the American National Red Cross, Washington, D. C.

#### ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 14 minutes p. m.) the House adjourned until to-morrow, Thursday, February 6, 1930, at 12 o'clock noon.

#### COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Thursday, February 6, 1930, as reported to the floor leader by clerks of the several committees:

#### COMMITTEE ON APPROPRIATIONS

(10.30 a. m. and 2 p. m.)

\*Navy Department appropriation bill.  
Deficiency appropriation bill.

(2 p. m.)

District of Columbia appropriation bill.

#### COMMITTEE ON IMMIGRATION AND NATURALIZATION

(10.30 a. m.)

To consider bills concerning aliens from countries of the Western Hemisphere immigrating to the United States.

#### COMMITTEE ON WAYS AND MEANS

(10 a. m.)

To amend the World War adjusted compensation act, as amended, by extending the time within which applications for benefits thereunder may be filed (H. R. 9102).

Extending for two years the time within which American claimants may make application for payment, under the settlement of war claims act of 1928, of awards of the Mixed Claims Commission and of the Tripartite Claims Commission (S. J. Res. 109).

To extend the jurisdiction of the arbiter under the settlement of war claims act to patents licensed to the United States, pursuant to an obligation arising out of their sale by the Alien Property Custodian (H. R. 9142).

To carry out the recommendation of the President in connection with the late-claims agreement entered into pursuant to the settlement of war claims act of 1928 (H. R. 8881).

#### COMMITTEE ON THE JUDICIARY—SUBCOMMITTEE NO. 2

(10 a. m.)

To provide for the procedure in the trial of certain criminal cases by the district courts of the United States (H. R. 1809).

For the relief of the congested conditions in the Federal courts of the United States and conferring jurisdiction on United States commissioners to hear pleas of guilty on information previously filed by the United States district attorney or his deputy and assess punishment as provided for by law, and providing for an appeal by any person aggrieved (H. R. 3139).

To authorize United States commissioners to hear all complaints of misdemeanor violations of the law (H. R. 8579).

To confer upon commissioners of the United States district courts jurisdiction to try and determine misdemeanors, as defined by section 335 of the United States Penal Code adopted March 4, 1909 (H. R. 8756).

To amend the national prohibition act (H. R. 8913).

To provide for summary prosecution of slight or casual violations of the national prohibition act (H. R. 8914).

#### COMMITTEE ON WORLD WAR VETERANS' LEGISLATION

(10 a. m.)

To amend the World War veterans' act, 1924, as amended (H. R. 8133).

#### COMMITTEE ON MILITARY AFFAIRS

(10.30 a. m.)

To consider the disposition of Muscle Shoals.

#### COMMITTEE ON THE PUBLIC LANDS

(10 a. m.)

To promote the better protection and highest public use of the lands of the United States and adjacent lands and waters in northern Minnesota for the protection of forest products, the development and extension of recreational uses, the preservation of wild life, and other purposes not inconsistent therewith; and to protect more effectively the streams and lakes dedicated to public use under the terms and spirit of clause 2 of the Webster-Ashburton treaty of 1842 between Great Britain and the United States; and looking toward the joint development of indispensable international recreational and economic assets (H. R. 6981).

#### COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To authorize the Secretary of the Navy to proceed with certain public works at the United States Naval Hospital, Washington, D. C. (H. R. 8866).

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

312. A letter from the Acting Secretary of Commerce, transmitting proposed draft of a bill to authorize the Secretary of Commerce to convey to the city of Port Angeles, Wash., a portion of the Ediz Hook Lighthouse Reservation, Wash.; to the Committee on Interstate and Foreign Commerce.

313. A letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination of Mouse River, N. Dak., with a view to the control of the floods; to the Committee on Flood Control and ordered to be printed, with illustrations.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. WASON: Committee on Appropriations. H. R. 9546. A bill making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1931, and for other purposes; without amendment (Rept. No. 612). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. S. 1487. An act authorizing the Secretary of the Treasury to permit the erection of a building for use as a residence for the Protestant chaplain at the National Leper Home at Carville, La., and for other purposes; without amendment (Rept. No. 613). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 2161. A bill to convey to the city of Waltham, Mass., certain Government land for street purposes; with amendment (Rept. No. 614). Referred to the Committee of the Whole House on the state of the Union.

Mr. KELLY: Committee on Post Offices and Post Roads. H. R. 5659. A bill to authorize the Postmaster General to charge a fee for inquiries made for patrons concerning registered, insured, or collect-on-delivery mail, and for postal money orders; without amendment (Rept. No. 615). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 7768. A bill to provide for the sale of the old post-office and courthouse building and site at Syracuse, N. Y.; without amendment (Rept. No. 616). Referred to the Committee of the Whole House on the state of the Union.

Mr. KELLY: Committee on Post Offices and Post Roads. H. R. 8569. A bill to authorize the Postmaster General to issue additional receipts or certificates of mailing to senders of any class of mail matter and to fix the fees chargeable therefor; with amendment (Rept. No. 617). Referred to the Committee of the Whole House on the state of the Union.



Mr. KELLY: Committee on Post Offices and Post Roads. H. R. 8650. A bill to authorize the Postmaster General to charge for services rendered in disposing of undelivered mail in those cases where it is considered proper for the Postal Service to dispose of such mail by sale or to dispose of collect-on-delivery mail without collection of the collect-on-delivery charges or for a greater or less amount than stated when mailed; without amendment (Rept. No. 618). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 8918. A bill authorizing conveyance to the city of Trenton, N. J., of title to a portion of the site of the present Federal building in that city; with amendment (Rept. No. 619). Referred to the Committee of the Whole House on the state of the Union.

Mr. KELLY: Committee on Post Offices and Post Roads. H. R. 7395. A bill to extend to Government postal cards the provision for defacing the stamps on Government-stamped envelopes by mailers; without amendment (Rept. No. 620). Referred to the House Calendar.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 9407. A bill to amend the act of Congress approved May 29, 1928, authorizing the Secretary of the Treasury to accept title to certain real estate subject to a reservation of mineral rights in favor of the Blackfeet Tribe of Indians; without amendment (Rept. No. 621). Referred to the House Calendar.

Mr. KELLY: Committee on the Post Office and Post Roads. H. R. 1234. A bill to authorize the Postmaster General to impose demurrage charge on undelivered collect-on-delivery parcels; with amendment (Rept. No. 622). Referred to the Committee of the Whole House on the state of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WASON: A bill (H. R. 9546) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1931, and for other purposes; committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

By Mr. BACHMANN: A bill (H. R. 9547) prescribing the procedure for forfeiture of vessels and vehicles under the customs, navigation, and internal revenue laws; to the Committee on the Judiciary.

By Mr. BACON: A bill (H. R. 9548) to amend certain sections of the immigration act of 1924; to the Committee on Immigration and Naturalization.

By Mr. DRANE: A bill (H. R. 9549) authorizing and directing the Secretary of Agriculture to establish and maintain a dairy and livestock experiment and demonstration station at Brighton, Fla.; to the Committee on Agriculture.

By Mr. QUAYLE: A bill (H. R. 9550) to promote temperance in the United States; to the Committee on the Judiciary.

Also, a bill (H. R. 9551) to amend the national prohibition act; to the Committee on the Judiciary.

Also, a bill (H. R. 9552) to amend the national prohibition act; to the Committee on the Judiciary.

By Mr. WHITE: A bill (H. R. 9553) to amend sections 401, 402, and 404 of the merchant marine act, 1928; to the Committee on the Merchant Marine and Fisheries.

By Mr. GARBER of Virginia: A bill (H. R. 9554) authorizing an appropriation of \$10,000 for the erection of a monument in memory of Gen. Daniel Morgan, patriot and soldier of the American Revolution, at Winchester, Va.; to the Committee on the Library.

By Mr. HOWARD: A bill (H. R. 9555) granting pensions to certain soldiers who served in the Sioux Indian campaign of 1890-91; to the Committee on Pensions.

By Mr. KELLY: A bill (H. R. 9556) to amend air mail act of February 2, 1925, as amended, further to encourage commercial aviation; to the Committee on the Post Office and Post Roads.

By Mr. MERRITT: A bill (H. R. 9557) to create a body corporate by the name of the Textile Alliance Foundation; to the Committee on Interstate and Foreign Commerce.

By Mr. MEAD: A bill (H. R. 9558) to amend section 4 of the act entitled "An act to create a Department of Labor," approved March 4, 1913; to the Committee on Labor.

Also, a bill (H. R. 9559) to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes; to the Committee on the Judiciary.

Also, a bill (H. R. 9560) to provide for the advance planning and regulated construction of certain public works, for the stabilization of industry, and for the prevention of unemployment during periods of business depression; to the Committee on the Judiciary.

By Mr. SPROUL of Illinois: A bill (H. R. 9561) authorizing the purchase and maintenance of passenger-carrying automobiles for use at post offices having gross receipts of \$1,000,000 or more; to the Committee on the Post Office and Post Roads.

By Mr. CARTER of Wyoming: A bill (H. R. 9562) to authorize an appropriation for purchasing 20 acres for addition to the Hot Springs Reserve on the Shoshone or Wind River Indian Reservation, Wyo.; to the Committee on Indian Affairs.

By Mr. BEEDY: A bill (H. R. 9563) to amend section 22, Title II, of the national prohibition act, to provide for citation by publication to relieve congestion of the courts, and for other purposes; to the Committee on the Judiciary.

#### MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

By Mr. FITZPATRICK: Memorial of the Legislature of the State of New York memorializing Congress to speedily enact legislation which will prevent the Federal courts from acquiring jurisdiction in local public utility rates cases until the highest court in the State has passed upon them; to the Committee on the Judiciary.

By Mr. GARBER of Virginia: Memorial of the General Assembly of the State of Virginia, requesting the Virginia delegation in Congress to urge the United States Government to build a bridge over the Albemarle and Chesapeake Canal at Pungo Ferry in Princess Anne County, Va.; to the Committee on Interstate and Foreign Commerce.

By Mr. BRUNNER: Memorial of the State Legislature of the State of New York memorializing Congress to speedily enact legislation which will prevent the Federal courts from acquiring jurisdiction in local public-utility rates cases until the highest court in the State has passed upon them; to the Committee on the Judiciary.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ARENTZ: A bill (H. R. 9564) for the relief of Thomas W. Bath; to the Committee on Military Affairs.

Also, a bill (H. R. 9565) granting a pension to Alma S. Bemenderfer; to the Committee on Invalid Pensions.

By Mr. FULMER: A bill (H. R. 9566) granting a pension to John T. Cooper; to the Committee on Pensions.

By Mr. GARBER of Virginia: A bill (H. R. 9567) to provide for the appointment of William J. Farrell as a warrant officer, United States Army; to the Committee on Military Affairs.

By Mr. HOWARD: A bill (H. R. 9568) for the relief of John M. Green; to the Committee on Claims.

By Mr. HUGHES: A bill (H. R. 9569) granting a pension to Frances Duty; to the Committee on Invalid Pensions.

By Mr. JAMES: A bill (H. R. 9570) granting a pension to John W. Zibble; to the Committee on Pensions.

By Mr. MORGAN: A bill (H. R. 9571) granting an increase of pension to Margaret A. Motz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9572) granting an increase of pension to Annie Castner; to the Committee on Invalid Pensions.

By Mr. MOUSER: A bill (H. R. 9573) granting an increase of pension to Ethel L. Neal; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 9574) granting an increase of pension to Agnes L. Turner; to the Committee on Invalid Pensions.

By Mr. PRALL: A bill (H. R. 9575) for the relief of the New York Marine Co.; to the Committee on Claims.

By Mr. RANKIN: A bill (H. R. 9576) granting a pension to William Theodore Dugard; to the Committee on Pensions.

By Mr. REID of Illinois: A bill (H. R. 9577) for the relief of Oscar Avery Bates; to the Committee on Naval Affairs.

By Mr. SIMMONS: A bill (H. R. 9578) granting an increase of pension to Anna D. Bush; to the Committee on Invalid Pensions.

By Mr. SWICK: A bill (H. R. 9579) granting an increase of pension to Harriet Sheaffer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9580) granting an increase of pension to Hannah S. Hinman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9581) granting an increase of pension to Mary J. McCommon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9582) granting an increase of pension to Ellen J. Norris; to the Committee on Invalid Pensions.

By Mr. TINKHAM: A bill (H. R. 9583) granting a pension to Caroline Richards Newcomb; to the Committee on Pensions.

By Mr. THURSTON: A bill (H. R. 9584) granting an increase of pension to Sarah E. Arnold; to the Committee on Invalid Pensions.

By Mr. ARENTZ: A bill (H. R. 9585) granting a pension to Joseph I. Earl; to the Committee on Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4107. By Mr. AYRES: Petition from Wichita, Kans., favoring legislation in behalf of Spanish War veterans; to the Committee on Pensions.

4108. By Mr. BAIRD: Petition of the American Legion Auxiliary, national executive committee, favoring ship for ship parity before committing our Government to naval reductions; to the Committee on Naval Affairs.

4109. By Mr. BLOOM: Petition of citizens of New York for speedy consideration and passage of Senate bill 476 and House bill 2562, providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4110. By Mr. BRUNNER: Resolution of Jamaica Council, No. 337, Knights of Columbus, Jamaica, N. Y., protesting and disapproving of bill known as the Capper-Robson Federal education bill, and urgently soliciting the cooperation of Representatives in Congress assembled to register their vote in disapproval of said bill; to the Committee on Education.

4111. By Mr. CHALMERS: Petition urging the enforcement of the laws enacted to make the eighteenth amendment to the Federal Constitution effective. This petition was signed by residents of Toledo, Ohio; to the Committee on the Judiciary.

4112. By Mr. CHINDBLOM: Petition of Martin Braun and 25 other citizens of Wilmette, Ill., and vicinity, indorsing House bill 2562 and Senate bill 476 providing increased pensions for Spanish-American War veterans; to the Committee on Pensions.

4113. By Mr. CONNOLLY: Petition of members of Lieut. Henry T. Dechert Camp, No. 80, United Spanish War Veterans, and others, of Philadelphia, Pa., urging early consideration and passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

4114. Also, petition of Philadelphia Drug Exchange, representing the wholesale and manufacturing drug, chemical, and allied industries of Philadelphia, Pa., and vicinity protesting against that portion of House bill 8574 creating a dual responsibility between the Treasury Department and the Department of Justice for the issuance of permits for industrial alcohol, urging the present system remain under the Treasury Department; to the Committee on Expenditures in Executive Departments.

4115. Also, petition of sundry citizens of Philadelphia, Pa., urging early consideration and passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

4116. By Mr. COOPER of Wisconsin: Memorial of common council of city of Milwaukee urging enactment of House Joint Resolution 167, authorizing and directing the President to proclaim October 11 of each year as General Pulaski's memorial day; to the Committee on the Judiciary.

4117. By Mr. CORNING: Petition signed by Frank Kellerman and other citizens of New Scotland, Albany County, N. Y., urging passage of House bill 2562 providing for an increase of pension to Spanish-American War veterans; to the Committee on Pensions.

4118. By Mr. CROSS: Petition of McLennan County Spanish War veterans, urging the passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

4119. By Mr. CROWTHER: Petition of residents of Schenectady, Troy, and Albany, N. Y., in behalf of House bill 2562; to the Committee on Pensions.

4120. By Mr. DAVENPORT: Petition of James Jordan, of Frankfort, N. Y., and others, favoring increased pensions to veterans of the Spanish-American War; to the Committee on Pensions.

4121. By Mr. DE PRIEST: Petition of 50 citizens of the first congressional district of Illinois, favoring legislation increasing pensions of men who served in the armed forces of the

United States during the Spanish War period; to the Committee on Pensions.

4122. By Mr. DRANE: Petition of citizens of the first district of Florida in support of additional pension legislation, House bill 2562 and Senate bill 476; to the Committee on Pensions.

4123. By Mr. DOUGHTON: Petition of citizens of Cabarrus County, N. C., requesting enactment of an amendment to present law to extend the date of service-connected disability allowance to January 1, 1930; to the Committee on World War Veterans' Legislation.

4124. By Mr. EATON of New Jersey: Resolutions of Progressive American Council, Sons and Daughters of Liberty, of Hopewell, N. J.; and Ray of Shining Light Council, Sons and Daughters of Liberty, of Clinton, N. J., favoring the placing of North and South American countries under immigration quota restriction; to the Committee on Immigration and Naturalization.

4125. By Mr. ENGLEBRIGHT: Petition of William E. Teal and other citizens of Dutch Flat, Calif., urging more adequate relief for the veterans of the Spanish-American War; to the Committee on Pensions.

4126. Also, petition of Colorado Chapter of the American Mining Congress and the Colorado Mining Association, favoring proposed cession of nonappropriated and nonreserved public lands to the various States, etc.; to the Committee on the Public Lands.

4127. Also, petition of the Colorado Chapter of the American Mining Congress and the Colorado Mining Association, to liberalize rules of Department of the Interior so as to conform to the spirit of the Federal Statutes governing acquisition of mineral lands, etc.; to the Committee on the Public Lands.

4128. Also, petition of the Colorado Chapter of the American Mining Congress and the Colorado Mining Association, condemning bill introduced by Senator NORSECK, which provides that mining locations hereafter made within forest reserves shall give the locator no title to the surface or to any natural resources other than the mineral deposit itself; to the Committee on the Public Lands.

4129. Also, petition of the Colorado Mining Association and the Colorado Chapter of the American Mining Congress, approving Senator KEY PITTMAN for proposed amendment to the tariff bill to impose a duty of 30 cents per ounce on silver imported into this country; to the Committee on Ways and Means.

4130. By Mr. FISHER: Petition of sundry citizens of Memphis, Tenn., praying for the passage of legislation granting increased pension to Spanish War veterans; to the Committee on Pensions.

4131. By Mr. FRENCH: Petition of 43 citizens of Sandpoint, Idaho, indorsing House bill 2562 providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4132. By Mr. FULMER: Petition of Camp No. 8, United Spanish War Veterans of South Carolina; C. B. Yeaton, commander; J. A. Raffield, mayor of the city of Sumter, S. C.; R. B. Waters, secretary board of trade, Sumter, S. C., urging passage of House bill 2562; to the Committee on Pensions.

4133. By Mr. FULLER: Petition of Thomas W. Bartlett and other citizens of Hilltop, Ark., urging the passage of House bill 2562, providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4134. By Mr. HAMMER: Petition of 43 persons of Anson County, N. C., asking for more liberal pension legislation for Spanish-American War veterans; to the Committee on Pensions.

4135. By Mr. HAWLEY: Petition of resident citizens of Goble, and Coquille, Oreg., praying for pension legislation; to the Committee on Pensions.

4136. Also, petition of the people of Creswell, Oreg., praying for pension legislation for the relief of Spanish War veterans; to the Committee on Pensions.

4137. By Mr. HILL of Washington: Petition of A. Holm and 28 other citizens of Winton, Wash., asking for speedy consideration and passage of Senate bill 476 and House bill 2562, providing for increase of pensions to Spanish War veterans; to the Committee on Pensions.

4138. By Mr. HOPKINS: Petition submitted by Mr. Elmer Delp, of 806 Twenty-fourth Street, St. Joseph, Mo., signed by many citizens of St. Joseph, petitioning for a more equitable adjustment of the laws governing our Spanish War veterans; to the Committee on Pensions.

4139. By Mr. HUDDLESTON: Petition of numerous residents of Jefferson County, Ala., in favor of more liberal pensions for Spanish War veterans; to the Committee on Pensions.



4140. By Mr. HUDSON: Petition of citizens of the sixth congressional district of Michigan urging favorable consideration of House bill 2562, providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4141. By Mr. HULL of Wisconsin: Resolution of Common Council of city of La Crosse, Wis., favoring legislation granting pensions and increasing pensions of certain soldiers, sailors, and nurses of the war with Spain, the Philippine insurrection, and China relief expedition; to the Committee on Pensions.

4142. Also, resolution of Roy L. Vingers Post, American Legion, La Crosse, Wis., favoring legislation granting pensions and increasing pensions to certain soldiers, sailors, and nurses of the war with Spain, the Philippine insurrection, and the China relief expedition; to the Committee on Pensions.

4143. Also, petition of citizens of Vernon County, Wis., favoring legislation increasing pensions of veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

4144. Also, petition of citizens of Thorpe, Wis., favoring legislation increasing pensions of veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

4145. By Mr. JOHNSON of Texas: Petition of Mr. W. T. Watkins, president, and Mr. J. B. Cropper, secretary of Carpenters Local Union, No. 213, of Houston, Tex., indorsing the John C. Box immigration bill; to the Committee on Immigration and Naturalization.

4146. By Mr. KVALE: Petition of Department of Minnesota, United Spanish War Veterans, urging passage of House bill 2562; to the Committee on Pensions.

4147. By Mr. LEECH: Petition of citizens of Johnstown, favoring the passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

4148. By Mr. McMILLAN: Petition of citizens of Jacksonboro, S. C., urging the passage of House bill 2562, granting an increase of pension to Spanish-American War veterans; to the Committee on Pensions.

4149. By Mr. MEAD: Petition of New York State Legislature, favoring enactment of legislation preventing action by the Federal courts in respect to public utilities; to the Committee on the Judiciary.

4150. By Mr. MICHENER: Petition of sundry citizens of Milan, Mich., favoring the passage of House bill 2562; to the Committee on Pensions.

4151. By Mr. MURPHY: Petition of Mr. Barton Jones, Tiltonville, Ohio, and 122 other residents of that city, asking for the passage of the Spanish-American War pension bill; to the Committee on Pensions.

4152. By Mr. PRALL: Petition received from citizens of Staten Island, N. Y., for the speedy consideration and passage of House bill 2562, providing for increased rates of pension to the men who served in the armed forces of the United States; to the Committee on Pensions.

4153. By Mr. HENRY T. RAINEY: Petition signed by Earle Williams and other citizens of Rockbridge, Ill., asking for increased pension rates to men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4154. By Mr. SHAFFER of Virginia: Petition of citizens of the State of Virginia, urging the passage of Senate bill 467 and House bill 2562, granting an increase of pension to Spanish-American War veterans; to the Committee on Pensions.

4155. By Mr. SPEAKS: Petition signed by 60 citizens of Columbus, Ohio, urging speedy consideration and passage of Senate bill 476 and House bill 2562, providing for increased rates of pension to men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4156. By Mr. SPROUL of Illinois: Petition of 127 citizens of Cook County, Ill., urging increased pensions for Spanish-American War veterans; to the Committee on Pensions.

4157. By Mr. WOLVERTON of West Virginia: Petition of Benton C. Radabaugh and citizens of Hall, H. A. Darnall and citizens of Buckhannon, Charles J. Loudin and citizens of Alton, and other citizens of Upshur, Lewis, Harrison, and Ritchie Counties, W. Va., urging Congress to take speedy and favorable action on Senate bill 476 and House bill 2562, providing increased pension schedule for the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

4158. By Mr. WOOD: Petition of citizens of Gary, Ind., asking for legislation increasing the rates of pension for Spanish-American War veterans; to the Committee on Pensions.

4159. Also, petition of citizens of Lafayette, Ind., asking for legislation increasing the rates of pension for Spanish-American War veterans; to the Committee on Pensions.

4160. By Mr. WYANT: Petition of Irwin Council, No. 44, Junior Order of United American Mechanics, Irwin, Pa., advocating passage of legislation placing Mexican immigration on quota basis, making The Star-Spangled Banner the official national anthem, and opposing the repeal of the national-origins clause of the immigration law; to the Committee on Immigration and Naturalization.

4161. By Mr. YATES: Petition of Harvey J. Sconce, Danville, Ill., urging that in order to bring about relative reduction of acreage of corn, wheat, and oats, farmers must have adequate tariff protection against foreign importation—namely, import duty of 45 cents per bushel on soybeans and \$6 per ton on soybean meal; to the Committee on Ways and Means.

## SENATE

THURSDAY, February 6, 1930

(Legislative day of Monday, January 6, 1930)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

HON. WILLIAM H. TAFT, FORMER CHIEF JUSTICE OF THE UNITED STATES

Mr. HARRIS. Mr. President, I submit a resolution, and ask unanimous consent for its immediate consideration after it is read.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 207) was read, considered by unanimous consent, and unanimously agreed to, as follows:

*Resolved*, That it was with deep regret that the Members of the Senate learned of the serious illness of former Chief Justice Taft, and it is hoped that he will soon be restored to health.

### PILGRIMAGE OF GOLD-STAR MOTHERS

Mr. JONES. Mr. President, I have in charge three deficiency measures which have recently passed the House and which are rather urgent in their nature. I think it will take only a moment or two to dispose of them.

From the Committee on Appropriations, I report back favorably, without amendment, the joint resolution (H. J. Res. 242) making an appropriation to carry out the provisions of the act entitled "An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries," approved March 2, 1929. I ask unanimous consent for the immediate consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole, and it was read, as follows:

*Resolved, etc.*, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,386,367, to remain available until December 31, 1933, to enable the Secretary of War to carry out the provisions of the act entitled "An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries," approved March 2, 1929 (45 Stat. 1508), and any acts amendatory thereof and supplementary thereto, including reimbursement of the appropriations of the War Department of such amounts as have been or may be expended therefrom in the administration of such act, and for such additional employees in the office of the Quartermaster General of the Army as the Secretary of War may deem necessary.

Mr. HARRIS. Mr. President, I am very much in favor of the joint resolutions reported by the chairman of the Appropriations Committee, particularly the one relating to the gold-star mothers. I presented to the Committee on Appropriations an amendment providing that those mothers who do not go abroad shall be allowed payment of the amount which it would have cost to send them had they gone. The amendment is subject to a point of order, and I shall not take the time of the Senate for a discussion of it to-day, but I have a bill providing for that payment, which is now pending before the Committee on Military Affairs, and I hope to have consideration of it soon, as I think it is a very important measure. There are many gold-star mothers without homes and comforts; some are really needy, while others are not strong enough to take the trip, and we should not discriminate against any of them. The amount it would cost the Government to send one of these gold-star mothers would build a small cottage and give other comforts. Of course, my plan would not deprive these mothers of the